

**STATE OF NORTH CAROLINA**  

---

**SESSION LAWS AND RESOLUTIONS**

**PASSED BY THE**

**2003 GENERAL ASSEMBLY**

**AT ITS**

**REGULAR SESSION 2003**

**BEGINNING ON  
WEDNESDAY, THE TWENTY-NINTH DAY OF  
JANUARY, A.D. 2003**

**AT ITS**

**FIRST EXTRA SESSION 2003**

**BEGINNING ON  
MONDAY, THE TWENTY-FOURTH DAY OF  
NOVEMBER, A.D. 2003**

**AND AT ITS**

**SECOND EXTRA SESSION 2003**

**BEGINNING ON  
TUESDAY, THE NINTH DAY OF  
DECEMBER, A.D. 2003**

**HELD IN THE CITY OF RALEIGH**

---

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

---

**PUBLISHED BY AUTHORITY**

---

This publication is printed on permanent, acid-free paper in compliance with the  
General Statutes of North Carolina.

865 copies of this two-volume, public document were printed  
at a cost of \$20.55 each.

## TABLE OF CONTENTS

Presiding Officers of the 2003 General Assembly .....	v
Executive Branch .....	v
Officers and Members of the Senate .....	vi
Officers and Members of the House .....	vii
Legislative Services Commission .....	ix
Legislative Services Staff Directors .....	ix
Constitution of North Carolina .....	xi
Regular Session 2003 Session Laws .....	1
Extra Session 2003 Session Laws .....	1313
Second Extra Session 2003 Session Laws .....	1421
Vetoes of Governor Michael F. Easley .....	1439
Regular Session 2003 Resolutions .....	1443
Extra Session 2003 Resolutions .....	1479
Second Extra Session 2003 Resolutions .....	1481
Executive Orders .....	1483
Certification .....	1523
Joint Conference Committee Report on the Continuation, Expansion and Capital Budgets .....	1525
2003 Numerical Index .....	1665
2003 Regular Session	
Session Law Index .....	1671
Resolution Index .....	1819
2003 First Extra Session	
Session Law Index .....	1823
Resolution Index .....	1824
2003 Second Extra Session	
Session Law Index .....	1825
Resolution Index .....	1828





# STATE OF NORTH CAROLINA

## PRESIDING OFFICERS OF THE 2003 GENERAL ASSEMBLY

BEVERLY E. PERDUE (D).....President of the Senate..... Craven  
JAMES B. BLACK (D).....Speaker of the House ..... Mecklenburg  
RICHARD T. MORGAN (R) .....Speaker of the House ..... Moore

## EXECUTIVE BRANCH

(Offices established by the Constitution, filled by  
election and comprising the Council of State)

MICHAEL F. EASLEY (D) .....Governor ..... Wake  
BEVERLY E. PERDUE (D).....Lieutenant Governor ..... Craven  
ELAINE F. MARSHALL (D).....Secretary of State ..... Harnett  
RALPH CAMPBELL, JR (D).....Auditor ..... Wake  
RICHARD H. MOORE (D) .....Treasurer ..... Vance  
MICHAEL E. WARD (D) .....Superintendent of Public Instruction ..... Wake  
ROY A. COOPER, III (D).....Attorney General.....Nash  
\*MEG SCOTT PHIPPS (D).....Commissioner of Agriculture ..... Alamance  
\*\*W. BRITT COBB JR. (D).....Commissioner of Agriculture ..... Wake  
CHERIE K. BERRY (R) .....Commissioner of Labor ..... Catawba  
JAMES E. LONG (D) .....Commissioner of Insurance ..... Alamance

The political affiliation of each legislator and member of the Council of State listed on this and the following pages is designated Democrat by the abbreviation "D" and designated Republican by the abbreviation "R".

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

\* Resigned on June 6, 2003.

\*\* Appointed June 6, 2003 to serve as the Interim Commissioner of Agriculture, and appointed Commissioner on December 8, 2003 to fill unexpired term.

## SENATE OFFICERS

<i>Name</i>	<i>Position</i>	<i>Address</i>
BEVERLY E. PERDUE .....	President .....	New Bern, Craven County
MARC BASNIGHT .....	President Pro Tempore .....	Manteo, Dare County
CHARLIE S. DANNELLY .....	Deputy President Pro Tempore ..	Charlotte, Mecklenburg County
JANET B. PRUITT .....	Principal Clerk .....	Raleigh, Wake County
TED HARRISON .....	Reading Clerk .....	Cary, Wake County
CECIL GOINS .....	Sergeant-at-Arms .....	Raleigh, Wake County

## SENATORS

<b>District</b>	<b>Name</b>	<b>Party</b>	<b>County</b>	<b>Address</b>
1	MARC BASNIGHT .....	D .....	Dare .....	Manteo
2	SCOTT THOMAS .....	D .....	Craven .....	New Bern
3	S. CLARK JENKINS .....	D .....	Edgecombe .....	Tarboro
4	ROBERT L. HOLLOMAN .....	D .....	Hertford .....	Ahoskie
5	TONY P. MOORE .....	D .....	Pitt .....	Winterville
6	CECIL HARGETT .....	D .....	Onslow .....	Richlands
7	JOHN H. KERR III .....	D .....	Wayne .....	Goldsboro
8	R.C. SOLES, JR. ....	D .....	Columbus .....	Tabor City
9	PATRICK J. BALLANTINE .....	R .....	New Hanover .....	Wilmington
10	CHARLES W. ALBERTSON .....	D .....	Duplin .....	Beulaville
11	A.B. SWINDELL IV .....	D .....	Nash .....	Nashville
12	FRED SMITH .....	R .....	Johnston .....	Clayton
13	DAVID F. WEINSTEIN .....	D .....	Robeson .....	Lumberton
14	VERNON MALONE .....	D .....	Wake .....	Raleigh
15	JOHN H. CARRINGTON .....	R .....	Wake .....	Raleigh
16	ERIC M. REEVES .....	D .....	Wake .....	Raleigh
17	RICHARD Y. STEVENS .....	R .....	Wake .....	Cary
18	WIB GULLEY .....	D .....	Durham .....	Durham
19	TONY RAND .....	D .....	Cumberland .....	Fayetteville
20	JEANNE H. LUCAS .....	D .....	Durham .....	Durham
21	LARRY SHAW .....	D .....	Cumberland .....	Fayetteville
22	HARRIS BLAKE .....	R .....	Moore .....	Pinehurst
23	ELEANOR KINNAIRD .....	D .....	Orange .....	Carrboro
24	HUGH WEBSTER .....	R .....	Alamance .....	Burlington
25	WILLIAM R. PURCELL .....	D .....	Scotland .....	Laurinburg
26	PHILIP E. BERGER .....	R .....	Rockingham .....	Eden
27	KAY R. HAGAN .....	D .....	Guilford .....	Greensboro
28	KATIE G. DORSETT .....	D .....	Guilford .....	Greensboro
29	JERRY W. TILLMAN .....	R .....	Randolph .....	Archdale
30	JOHN A. GARWOOD .....	R .....	Wilkes .....	North Wilkesboro
31	HAMILTON C. HORTON, JR. ....	R .....	Forsyth .....	Winston-Salem
32	LINDA GARROU .....	D .....	Forsyth .....	Winston-Salem
33	STAN BINGHAM .....	R .....	Davidson .....	Denton
34	ANDREW C. BROCK .....	R .....	Davie .....	Mocksville
35	FERN SHUBERT .....	R .....	Union .....	Marshville
36	FLETCHER L. HARTSELL, JR. ....	R .....	Cabarrus .....	Concord
37	DANIEL G. CLODFELTER .....	D .....	Mecklenburg .....	Charlotte
38	CHARLIE S. DANNELLY .....	D .....	Mecklenburg .....	Charlotte
39	ROBERT A. RUCHO .....	R .....	Mecklenburg .....	Matthews
40	ROBERT PITTENGER .....	R .....	Mecklenburg .....	Charlotte
41	R. B. SLOAN, JR. ....	R .....	Iredell .....	Mooresville
42	JAMES FORRESTER .....	R .....	Gaston .....	Stanley
43	DAVID W. HOYLE .....	D .....	Gaston .....	Dallas
44	AUSTIN M. ALLRAN .....	R .....	Catawba .....	Hickory
45	VIRGINIA FOXX .....	R .....	Watauga .....	Banner Elk
46	WALTER H. DALTON .....	D .....	Rutherford .....	Rutherfordton
47	JOE SAM QUEEN .....	D .....	Haywood .....	Waynesville
48	TOM APODACA .....	R .....	Henderson .....	Hendersonville
49	STEVE METCALF .....	D .....	Buncombe .....	Weaverville
50	ROBERT C. CARPENTER .....	R .....	Macon .....	Franklin

## HOUSE OFFICERS

<i>Name</i>	<i>Position</i>	<i>Address</i>
JAMES B. BLACK.....	Speaker.....	Matthews, Mecklenburg County
RICHARD T. MORGAN.....	Speaker.....	Eagle Springs, Moore County
DENISE G. WEEKS.....	Principal Clerk.....	Willow Springs, Wake County
ROBERT R. SAMUELS.....	Sergeant-at-Arms.....	Charlotte, Mecklenburg County

## REPRESENTATIVES

<b>District</b>	<b>Name</b>	<b>Party</b>	<b>County</b>	<b>Address</b>
1	WILLIAM C. OWENS, JR.....	D.....	Pasquotank.....	Elizabeth City
2	WILLIAM T. CULPEPPER, III.....	D.....	Chowan.....	Edenton
3	MICHAEL A. GORMAN.....	R.....	Craven.....	Trent Woods
4	CHARLES E. JOHNSON.....	D.....	Pitt.....	Greenville
5	HOWARD J. HUNTER, JR.....	D.....	Hertford.....	Winton
6	ARTHUR J. WILLIAMS.....	D.....	Beaufort.....	Washington
7	JOHN D. HALL.....	D.....	Halifax.....	Scotland Neck
8	EDITH D. WARREN.....	D.....	Pitt.....	Farmville
9	MARIAN N. MCLAWHORN.....	D.....	Pitt.....	Grifton
10	STEPHEN A. LAROQUE.....	R.....	Lenoir.....	Kinston
11	LOUIS M. PATE, JR.....	R.....	Wayne.....	Mt. Olive
12	WILLIAM L. WAINWRIGHT.....	D.....	Craven.....	Havelock
13	JEAN R. PRESTON.....	R.....	Carteret.....	Emerald Isle
14	KEITH P. WILLIAMS.....	R.....	Onslow.....	Hubert
15	W. ROBERT GRADY.....	R.....	Onslow.....	Jacksonville
16	CAROLYN H. JUSTICE.....	R.....	Pender.....	Hampstead
17	BONNER L. STILLER.....	R.....	Brunswick.....	Oak Island
18	THOMAS E. WRIGHT.....	D.....	New Hanover.....	Wilmington
19	DANIEL F. MCCOMAS.....	R.....	New Hanover.....	Wilmington
20	DEWEY L. HILL.....	D.....	Columbus.....	Lake Waccamaw
21	LARRY M. BELL.....	D.....	Sampson.....	Clinton
22	EDD NYE.....	D.....	Bladen.....	Elizabethtown
23	JOE P. TOLSON.....	D.....	Edgecombe.....	Pinetops
24	JEAN FARMER-BUTTERFIELD.....	D.....	Wilson.....	Wilson
25	WILLIAM G. DAUGHTRIDGE, JR.....	R.....	Nash.....	Rocky Mount
26	BILLY J. CREECH.....	R.....	Johnston.....	Clayton
27	STANLEY H. FOX.....	D.....	Granville.....	Oxford
28	N. LEO DAUGHTRY.....	R.....	Johnston.....	Smithfield
29	PAUL MILLER.....	D.....	Durham.....	Durham
30	PAUL LUEBKE.....	D.....	Durham.....	Durham
31	HENRY M. MICHAUX, JR.....	D.....	Durham.....	Durham
32	JAMES W. CRAWFORD, JR.....	D.....	Granville.....	Oxford
33	BERNARD ALLEN.....	D.....	Wake.....	Raleigh
34	DON MUNFORD.....	R.....	Wake.....	Raleigh
35	JENNIFER WEISS.....	D.....	Wake.....	Cary
36	DAVID M. MINER.....	R.....	Wake.....	Cary
37	PAUL STAM.....	R.....	Wake.....	Apex
38	DEBORAH K. ROSS.....	D.....	Wake.....	Raleigh
39	J. SAM ELLIS.....	R.....	Wake.....	Raleigh
40	RICK L. EDDINS.....	R.....	Wake.....	Raleigh
41	MARGARET H. DICKSON.....	D.....	Cumberland.....	Fayetteville
42	MARVIN W. LUCAS.....	D.....	Cumberland.....	Spring Lake
43	MARY E. MCALLISTER.....	D.....	Cumberland.....	Fayetteville
44	RICK GLAZIER.....	D.....	Cumberland.....	Fayetteville
45	ALEX WARNER.....	D.....	Cumberland.....	Hope Mills
46	DOUGLAS Y. YONGUE.....	D.....	Scotland.....	Laurinburg
47	RONNIE N. SUTTON.....	D.....	Robeson.....	Pembroke
48	DONALD A. BONNER.....	D.....	Robeson.....	Rowland
49	LUCY T. ALLEN.....	D.....	Franklin.....	Louisburg
50	J. RUSSELL CAPPS.....	R.....	Wake.....	Raleigh
51	JOHN I. SAULS.....	R.....	Lee.....	Sanford
52	RICHARD T. MORGAN.....	R.....	Moore.....	Eagle Springs
53	DAVID R. LEWIS.....	R.....	Harnett.....	Dunn
54	JOE HACKNEY.....	D.....	Orange.....	Chapel Hill
55	GORDON P. ALLEN.....	D.....	Person.....	Roxboro
56	VERLA C. INSKO.....	D.....	Orange.....	Chapel Hill

57	JOANNE W. BOWIE.....	R.....	Guilford.....	Greensboro
58	ALMA S. ADAMS.....	D.....	Guilford.....	Greensboro
59	MAGGIE JEFFUS.....	D.....	Guilford.....	Greensboro
60	EARL JONES.....	D.....	Guilford.....	Greensboro
61	STEPHEN W. WOOD.....	R.....	Guilford.....	High Point
62	JOHN M. BLUST.....	R.....	Guilford.....	Greensboro
63	ALICE L. BORDSEN.....	D.....	Alamance.....	Mebane
64	CARY D. ALLRED.....	R.....	Alamance.....	Burlington
65	E. NELSON COLE.....	D.....	Rockingham.....	Reidsville
66	P. WAYNE SEXTON, SR.....	R.....	Rockingham.....	Eden
67	ARLIE F. CULP.....	R.....	Randolph.....	Ramseur
68	G. WAYNE GOODWIN.....	D.....	Richmond.....	Rockingham
69	PRYOR A. GIBSON, III.....	D.....	Montgomery.....	Troy
70	BOBBY H. BARBEE, SR.....	R.....	Stanly.....	Locust
71	LARRY W. WOMBLE.....	D.....	Forsyth.....	Winston-Salem
72	EARLINE W. PARMON.....	D.....	Forsyth.....	Winston-Salem
73	J. CURTIS BLACKWOOD, JR.....	R.....	Union.....	Matthews
74	LINDA P. JOHNSON.....	R.....	Cabarrus.....	Kannapolis
75	JEFFREY L. BARNHART.....	R.....	Cabarrus.....	Concord
76	W. EUGENE MCCOMBS.....	R.....	Rowan.....	Faith
77	LORENE T. COATES.....	D.....	Rowan.....	Salisbury
78	HAROLD J. BRUBAKER.....	R.....	Randolph.....	Asheboro
79	JULIA C. HOWARD.....	R.....	Davie.....	Mocksville
80	JERRY C. DOCKHAM.....	R.....	Davidson.....	Denton
81	L. HUGH HOLLIMAN.....	D.....	Davidson.....	Lexington
82	W. EUGENE WILSON.....	R.....	Watauga.....	Boone
83	R. TRACY WALKER.....	R.....	Wilkes.....	Wilkesboro
84	PHILLIP D. FRYE.....	R.....	Mitchell.....	Spruce Pine
85	MITCH GILLESPIE.....	R.....	McDowell.....	Marion
86	WALTER G. CHURCH, SR.....	D.....	Burke.....	Valdese
87	EDGAR V. STARNES.....	R.....	Caldwell.....	Granite Falls
88	MARK K. HILTON.....	R.....	Catawba.....	Conover
89	MITCHELL S. SETZER.....	R.....	Catawba.....	Catawba
90	JAMES A. HARRELL, III.....	D.....	Surry.....	Elkin
91	REX L. BAKER.....	R.....	Stokes.....	King
92	GEORGE M. HOLMES.....	R.....	Yadkin.....	Hamptonville
93	WILLIAM C. MCGEE.....	R.....	Forsyth.....	Clemmons
94	MICHAEL P. DECKER.....	D/R*	Forsyth.....	Walkertown
95	KAREN B. RAY.....	R.....	Iredell.....	Mooreville
96	W. FRANKLIN MITCHELL.....	R.....	Iredell.....	Olin
97	JOE L. KISER.....	R.....	Lincoln.....	Vale
98	JOHN W. RHODES.....	R.....	Mecklenburg.....	Cornelius
99	DREW P. SAUNDERS.....	D.....	Mecklenburg.....	Huntersville
100	JAMES B. BLACK.....	D.....	Mecklenburg.....	Matthews
101	BEVERLY M. EARLE.....	D.....	Mecklenburg.....	Charlotte
102	BECKY CARNEY.....	D.....	Mecklenburg.....	Charlotte
103	JIM GULLEY.....	R.....	Mecklenburg.....	Matthews
104	CONSTANCE K. WILSON.....	R.....	Mecklenburg.....	Charlotte
105	W. EDWIN MCMAHAN.....	R.....	Mecklenburg.....	Charlotte
106	MARTHA B. ALEXANDER.....	D.....	Mecklenburg.....	Charlotte
107	W. PETE CUNNINGHAM.....	D.....	Mecklenburg.....	Charlotte
108	JOHN M. RAYFIELD.....	R.....	Gaston.....	Belmont
109	PATRICK T. MCHENRY.....	R.....	Gaston.....	Gastonia
110	DEBBIE A. CLARY.....	R.....	Cleveland.....	Cherryville
111	TIM MOORE.....	R.....	Cleveland.....	Kings Mountain
112	BOBBY F. ENGLAND.....	D.....	Rutherford.....	Ellenboro
113	TRUDI WALEND.....	R.....	Transylvania.....	Brevard
114	MARTIN L. NESBITT, JR.....	D.....	Buncombe.....	Asheville
115	D. BRUCE GOFORTH.....	D.....	Buncombe.....	Asheville
116	WILMA M. SHERRILL.....	R.....	Buncombe.....	Asheville
117	CAROLYN K. JUSTUS.....	R.....	Henderson.....	Hendersonville
118	RAYMOND C. RAPP.....	D.....	Madison.....	Mars Hill
119	R. PHILLIP HAIRE.....	D.....	Jackson.....	Sylva
120	ROGER WEST.....	R.....	Cherokee.....	Marble

\*Elected as a Republican, changed affiliation to Democrat on January 28, 2003; changed affiliation to Republican on September 15, 2003.

# LEGISLATIVE SERVICES COMMISSION

SENATE PRESIDENT PRO TEMPORE MARC BASNIGHT, *COCHAIR*

HOUSE SPEAKER JAMES B. BLACK, *COCHAIR*

HOUSE SPEAKER RICHARD T. MORGAN, *COCHAIR*

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

REP. GORDON P. ALLEN  
REP. WILLIAM T. CULPEPPER, III  
REP. FLOSSIE BOYD-MCINTYRE  
REP. STANLEY H. FOX  
REP. LYONS GRAY  
REP. WILMA M. SHERRILL  
REP. JOE P. TOLSON

## LEGISLATIVE SERVICES STAFF DIRECTORS

GEORGE R. HALL, JR. .... Legislative Services Officer  
GERRY F. COHEN ..... Director of the Bill Drafting Division  
JAMES D. JOHNSON ..... Director of the Fiscal Research Division  
DENNIS W. MCCARTY ..... Director of the Information Systems Division  
TONY C. GOLDMAN ..... Director of the Administrative Division  
TERRENCE D. SULLIVAN ..... Director of the Research Division



# CONSTITUTION OF NORTH CAROLINA

## PREAMBLE

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

## ARTICLE I DECLARATION OF RIGHTS

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

### **Section 1. The equality and rights of persons.**

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

### **Sec. 2. Sovereignty of the people.**

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

### **Sec. 3. Internal government of the State.**

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

### **Sec. 4. Secession prohibited.**

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

### **Sec. 5. Allegiance to the United States.**

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

### **Sec. 6. Separation of powers.**

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

**Sec. 7. Suspending laws.**

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

**Sec. 8. Representation and taxation.**

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

**Sec. 9. Frequent elections.**

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

**Sec. 10. Free elections.**

All elections shall be free.

**Sec. 11. Property qualifications.**

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

**Sec. 12. Right of assembly and petition.**

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

**Sec. 13. Religious liberty.**

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

**Sec. 14. Freedom of speech and press.**

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

**Sec. 15. Education.**

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

**Sec. 16. Ex post facto laws.**

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



**Sec. 17. Slavery and involuntary servitude.**

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

**Sec. 18. Court shall be open.**

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

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

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

**Sec. 20. General warrants.**

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

**Sec. 21. Inquiry into restraints on liberty.**

Every person restrained of his liberty is entitled to a remedy to inquire into the lawfulness thereof, and to remove the restraint if unlawful, and that remedy shall not be denied or delayed. The privilege of the writ of habeas corpus shall not be suspended.

**Sec. 22. Modes of prosecution.**

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

**Sec. 23. Rights of accused.**

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

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

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

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

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

**Sec. 26. Jury service.**

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

**Sec. 27. Bail, fines, and punishments.**

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

**Sec. 28. Imprisonment for debt.**

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

**Sec. 29. Treason against the State.**

Treason against the State shall consist only of levying war against it or adhering to its enemies by giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court. No conviction of treason or attainder shall work corruption of blood or forfeiture.

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

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

**Sec. 31. Quartering of soldiers.**

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

**Sec. 32. Exclusive emoluments.**

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

**Sec. 33. Hereditary emoluments and honors.**

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

**Sec. 34. Perpetuities and monopolies.**

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

**Sec. 35. Recurrence to fundamental principles.**

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

**Sec. 36. Other rights of the people.**

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

**Sec. 37. Rights of victims of crime.**

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

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

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

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

**ARTICLE II  
LEGISLATIVE**

**Section 1. Legislative power.**

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

**Sec. 2. Number of Senators.**

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

**Sec. 3. Senate districts; apportionment of Senators.**

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

(1) Each Senator shall represent, as nearly as may be, an equal number of inhabitants, the number of inhabitants that each Senator represents being determined for

this purpose by dividing the population of the district that he represents by the number of Senators apportioned to that district;

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

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

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

**Sec. 4. Number of Representatives.**

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

**Sec. 5. Representative districts; apportionment of Representatives.**

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

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

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

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

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

**Sec. 6. Qualifications for Senator.**

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

**Sec. 7. Qualifications for Representative.**

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

**Sec. 8. Elections.**

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

**Sec. 9. Term of office.**

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

**Sec. 10. Vacancies.**

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

**Sec. 11. Sessions.**

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

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

**Sec. 12. Oath of members.**

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

**Sec. 13. President of the Senate.**

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

**Sec. 14. Other officers of the Senate.**

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

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

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

**Sec. 15. Officers of the House of Representatives.**

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

**Sec. 16. Compensation and allowances.**

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

**Sec. 17. Journals.**

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

**Sec. 18. Protests.**

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

**Sec. 19. Record votes.**

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

**Sec. 20. Powers of the General Assembly.**

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

**Sec. 21. Style of the acts.**

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

**Sec. 22. Action on bills.**

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

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

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

CONSTITUTION OF NORTH CAROLINA

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

(5) Other exceptions. Every bill:

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

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

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

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

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

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

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

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

vetoed legislation is unnecessary, the Governor shall not reconvene the session for that purpose and any legislation vetoed in accordance with this section after adjournment shall not become law.

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

**Sec. 23. Revenue bills.**

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

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

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

- (a) Relating to health, sanitation, and the abatement of nuisances;
- (b) Changing the names of cities, towns, and townships;
- (c) Authorizing the laying out, opening, altering, maintaining, or discontinuing of highways, streets, or alleys;
- (d) Relating to ferries or bridges;
- (e) Relating to non-navigable streams;
- (f) Relating to cemeteries;
- (g) Relating to the pay of jurors;
- (h) Erecting new townships, or changing township lines, or establishing or changing the lines of school districts;
- (i) Remitting fines, penalties, and forfeitures, or refunding moneys legally paid into the public treasury;
- (j) Regulating labor, trade, mining, or manufacturing;
- (k) Extending the time for the levy or collection of taxes or otherwise relieving any collector of taxes from the due performance of his official duties or his sureties from liability;
- (l) Giving effect to informal wills and deeds;
- (m) Granting a divorce or securing alimony in any individual case;
- (n) Altering the name of any person, or legitimating any person not born in lawful wedlock, or restoring to the rights of citizenship any person convicted of a felony.

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

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

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



**ARTICLE III  
EXECUTIVE**

**Section 1. Executive power.**

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

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

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

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

**Sec. 3. Succession to office of Governor.**

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

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

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

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

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

**Sec. 4. Oath of office for Governor.**

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

**Sec. 5. Duties of Governor.**

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

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

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

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

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

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

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

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

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

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

(10) Administrative reorganization. The General Assembly shall prescribe the functions, powers, and duties of the administrative departments and agencies of the

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

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

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

**Sec. 6. Duties of the Lieutenant Governor.**

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

**Sec. 7. Other elective officers.**

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

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

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

(4) Interim officers. Upon the occurrence of a vacancy in the office of any one of these officers for any of the causes stated in the preceding paragraph, the Governor may

appoint an interim officer to perform the duties of that office until a person is appointed or elected pursuant to this Section to fill the vacancy and is qualified.

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

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

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

**Sec. 8. Council of State.**

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

**Sec. 9. Compensation and allowances.**

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

**Sec. 10. Seal of State.**

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

**Sec. 11. Administrative departments.**

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

**ARTICLE IV  
JUDICIAL**

**Section 1. Judicial power.**

The judicial power of the State shall, except as provided in Section 3 of this Article, be vested in a Court for the Trial of Impeachments and in a General Court of Justice. The General Assembly shall have no power to deprive the judicial department of any power or jurisdiction that rightfully pertains to it as a co-ordinate department of the

government, nor shall it establish or authorize any courts other than as permitted by this Article.

**Sec. 2. General Court of Justice.**

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

**Sec. 3. Judicial powers of administrative agencies.**

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

**Sec. 4. Court for the Trial of Impeachments.**

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

**Sec. 5. Appellate division.**

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

**Sec. 6. Supreme Court.**

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

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

**Sec. 7. Court of Appeals.**

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

**Sec. 8. Retirement of Justices and Judges.**

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

**Sec. 9. Superior Courts.**

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

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

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

**Sec. 10. District Courts.**

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

**Sec. 11. Assignment of Judges.**

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

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

(1) Supreme Court. The Supreme Court shall have jurisdiction to review upon appeal any decision of the courts below, upon any matter of law or legal inference. The

## CONSTITUTION OF NORTH CAROLINA

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

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

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

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

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

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

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

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

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

### **Sec. 14. Waiver of jury trial.**

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

### **Sec. 15. Administration.**

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

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

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

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

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

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

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

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

**Sec. 18. District Attorney and Prosecutorial Districts.**

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



## CONSTITUTION OF NORTH CAROLINA

(2) Prosecution in District Court Division. Criminal actions in the District Court Division shall be prosecuted in such manner as the General Assembly may prescribe by general law uniformly applicable in every local court district of the State.

### **Sec. 19. Vacancies.**

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

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

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

### **Sec. 21. Fees, salaries, and emoluments.**

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

### **Sec. 22. Qualification of Justices and Judges.**

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

## **ARTICLE V FINANCE**

### **Section 1. No capitation tax to be levied.**

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

**Sec. 2. State and local taxation.**

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

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

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

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

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

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

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

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

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

- (a) to fund or refund a valid existing debt;
- (b) to supply an unforeseen deficiency in the revenue;
- (c) to borrow in anticipation of the collection of taxes due and payable within the current fiscal year to an amount not exceeding 50 per cent of such taxes;
- (d) to suppress riots or insurrections, or to repel invasions;

CONSTITUTION OF NORTH CAROLINA

- (e) to meet emergencies immediately threatening the public health or safety, as conclusively determined in writing by the Governor;
- (f) for any other lawful purpose, to the extent of two-thirds of the amount by which the State's outstanding indebtedness shall have been reduced during the next preceding biennium.

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

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

(4) Certain debts barred. The General Assembly shall never assume or pay any debt or obligation, express or implied, incurred in aid of insurrection or rebellion against the United States. Neither shall the General Assembly assume or pay any debt or bond incurred or issued by authority of the Convention of 1868, the special session of the General Assembly of 1868, or the General Assemblies of 1868-69 and 1869-70, unless the subject is submitted to the people of the State and is approved by a majority of all the qualified voters at a referendum held for that sole purpose.

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

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

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

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

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

## CONSTITUTION OF NORTH CAROLINA

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

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

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

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

### **Sec. 5. Acts levying taxes to state objects.**

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

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

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

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

### **Sec. 7. Drawing public money.**

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

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

### **Sec. 8. Health care facilities.**

Notwithstanding any other provisions of this Constitution, the General Assembly may enact general laws to authorize the State, counties, cities or towns, and other State and local governmental entities to issue revenue bonds to finance or refinance for any such governmental entity or any nonprofit private corporation, regardless of any church

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

**Sec. 9. Capital projects for industry.**

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

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

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

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

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

charged with any debt, lien or mortgage as a result of any debt or obligation of any co-owner.

**Sec. 11. Capital projects for agriculture.**

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

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

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

**Sec. 12. Higher Education Facilities.**

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

**Sec. 13. Seaport and airport facilities.**

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

- (a) to acquire, construct, own, own jointly with public and private parties, lease as lessee, mortgage, sell, lease as lessor, or otherwise dispose of lands and facilities and improvements, including undivided interest therein;
- (b) to finance and refinance for public and private parties seaport and airport facilities and improvements which relate to, develop or further waterborne or airborne commerce and cargo and passenger traffic, including commercial, industrial, manufacturing, processing, mining,

## CONSTITUTION OF NORTH CAROLINA

- transportation, distribution, storage, marine, aviation and environmental facilities and improvements; and
- (c) to secure any such financing or refinancing by all or any portion of their revenues, income or assets or other available monies associated with any of their seaport or airport facilities and with the facilities and improvements to be financed or refinanced, and by foreclosable liens on all or any part of their properties associated with any of their seaport or airport facilities and with the facilities and improvements to be financed or refinanced, but in no event to create a debt secured by a pledge of the faith and credit of the State or any other public body in the State.

### ARTICLE VI SUFFRAGE AND ELIGIBILITY TO OFFICE

#### **Section 1. Who may vote.**

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

#### **Sec. 2. Qualifications of voter.**

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

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

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

#### **Sec. 3. Registration.**

Every person offering to vote shall be at the time legally registered as a voter as herein prescribed and in the manner provided by law. The General Assembly shall enact general laws governing the registration of voters.

#### **Sec. 4. Qualification for registration.**

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

**Sec. 5. Elections by people and General Assembly.**

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

**Sec. 6. Eligibility to elective office.**

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

**Sec. 7. Oath.**

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

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

**Sec. 8. Disqualifications for office.**

The following persons shall be disqualified for office:

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

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

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

**Sec. 9. Dual office holding.**

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

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



**Sec. 10. Continuation in office.**

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

**ARTICLE VII  
LOCAL GOVERNMENT**

**Section 1. General Assembly to provide for local government.**

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

The General Assembly shall not incorporate as a city or town, nor shall it authorize to be incorporated as a city or town, any territory lying within one mile of the corporate limits of any other city or town having a population of 5,000 or more according to the most recent decennial census of population taken by order of Congress, or lying within three miles of the corporate limits of any other city or town having a population of 10,000 or more according to the most recent decennial census of population taken by order of Congress, or lying within four miles of the corporate limits of any other city or town having a population of 25,000 or more according to the most recent decennial census of population taken by order of Congress, or lying within five miles of the corporate limits of any other city or town having a population of 50,000 or more according to the most recent decennial census of population taken by order of Congress. Notwithstanding the foregoing limitations, the General Assembly may incorporate a city or town by an act adopted by vote of three-fifths of all the members of each house.

**Sec. 2. Sheriffs.**

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

**Sec. 3. Merged or consolidated counties.**

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

**ARTICLE VIII  
CORPORATIONS**

**Section 1. Corporate charters.**

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

acts may be altered from time to time or repealed. The General Assembly may at any time by special act repeal the charter of any corporation.

**Sec. 2. Corporations defined.**

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

**ARTICLE IX  
EDUCATION**

**Section 1. Education encouraged.**

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

**Sec. 2. Uniform system of schools.**

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

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

**Sec. 3. School attendance.**

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

**Sec. 4. State Board of Education.**

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

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

**Sec. 5. Powers and duties of Board.**

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

**Sec. 6. State school fund.**

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

**Sec. 7. County school fund.**

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

**Sec. 8. Higher education.**

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

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

The General Assembly shall provide that the benefits of The University of North Carolina and other public institutions of higher education, as far as practicable, be extended to the people of the State free of expense.

**Sec. 10. Escheats.**

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

(2) Escheats after June 30, 1971. All property that, after June 30, 1971, shall accrue to the State from escheats, unclaimed dividends, or distributive shares of the estates of deceased persons shall be used to aid worthy and needy students who are

residents of this State and are enrolled in public institutions of higher education in this State. The method, amount, and type of distribution shall be prescribed by law.

**ARTICLE X  
HOMESTEADS AND EXEMPTIONS**

**Section 1. Personal property exemptions.**

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

**Sec. 2. Homestead exemptions.**

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

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

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

(4) Conveyance of homestead. Nothing contained in this Article shall operate to prevent the owner of a homestead from disposing of it by deed, but no deed made by a married owner of a homestead shall be valid without the signature and acknowledgement of his or her spouse.

**Sec. 3. Mechanics' and laborers' liens.**

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

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

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

## CONSTITUTION OF NORTH CAROLINA

### **Sec. 5. Insurance.**

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

## **ARTICLE XI PUNISHMENTS, CORRECTIONS, AND CHARITIES**

### **Section 1. Punishments.**

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

### **Sec. 2. Death punishment.**

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

### **Sec. 3. Charitable and correctional institutions and agencies.**

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

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

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

## **ARTICLE XII MILITARY FORCES**

### **Section 1. Governor is Commander in Chief.**

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

**ARTICLE XIII**  
**CONVENTIONS; CONSTITUTIONAL AMENDMENT AND REVISION**

**Section 1. Convention of the People.**

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

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

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

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

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

**Sec. 4. Revision or amendment by legislative initiation.**

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

CONSTITUTION OF NORTH CAROLINA

**ARTICLE XIV  
MISCELLANEOUS**

**Section 1. Seat of government.**

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

**Sec. 2. State boundaries.**

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

**Sec. 3. General laws defined.**

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

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

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

**Sec. 5. Conservation of natural resources.**

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

To accomplish the aforementioned public purposes, the State and its counties, cities and towns, and other units of local government may acquire by purchase or gift properties or interests in properties which shall, upon their special dedication to and acceptance by a law enacted by a vote of three-fifths of the members of each house of the General Assembly for those public purposes, constitute part of the 'State Nature and Historic Preserve,' and which shall not be used for other purposes except as authorized by law enacted by a vote of three-fifths of the members of each house of the General

## CONSTITUTION OF NORTH CAROLINA

Assembly. The General Assembly shall prescribe by general law the conditions and procedures under which such properties or interests therein shall be dedicated for the aforementioned public purposes. (1971, c. 630, s. 1; S.L. 1999-268, ss 3-5; S.L. 2001-217, s. 3; S.L. 2002-3 Extra Session.)



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

---

**REGULAR SESSION 2003**

---

**S.B. 8**

**Session Law 2003-1**

AN ACT PROVIDING IMMEDIATE ELIGIBILITY FOR UNEMPLOYMENT BENEFITS TO INDIVIDUALS UNEMPLOYED DUE TO A MAJOR INDUSTRIAL DISASTER.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 96-13 is amended by adding a new subsection to read:

"(c1) As to claims filed on or after January 29, 2003, the waiting period for a benefit year shall not be required of a claimant if all of the following conditions are met:

- (1) The benefits are to be paid for unemployment due directly to a major industrial disaster that destroys substantially all of the physical facilities of a manufacturing plant.
- (2) The Governor has acknowledged the disaster through the creation of such task forces as are needed to coordinate State assistance to the manufacturer and its employees.
- (3) The Governor has issued an Executive Order directing and authorizing the Employment Security Commission to waive the waiting week for employees of the manufacturer.
- (4) The Employment Security Commission shall implement regulations prescribing the procedure for the waiver of the waiting period week in accordance with G.S. 96-4(b)."

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

In the General Assembly read three times and ratified this the 26<sup>th</sup> day of February, 2003.

Became law upon approval of the Governor at 4:20 p.m. on the 27<sup>th</sup> day of February, 2003.

**S.B. 29**

**Session Law 2003-2**

AN ACT TO EXTEND THE EFFECTIVE DATE OF THE EXEMPTION GIVEN TO RETAILERS UNDER THE LAWS REGULATING PLUMBING AND HEATING CONTRACTORS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Section 36(b) of S.L. 2002-159 reads as rewritten:

"**SECTION 36.(b)** This section becomes effective ~~March 1, 2003~~ May 1, 2003."

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

In the General Assembly read three times and ratified this the 26<sup>th</sup> day of February, 2003.

Became law upon approval of the Governor at 4:42 p.m. on the 27<sup>th</sup> day of February, 2003.

**H.B. 35**

**Session Law 2003-3**

AN ACT EXEMPTING THE TOWN OF WAYNESVILLE FROM THE MAILED NOTICE PROVISION OF G.S. 160A-384 WHEN THE ENTIRE ZONING JURISDICTION IS REZONED.

*The General Assembly of North Carolina enacts:*

**SECTION 1.(a)** Notwithstanding G.S. 160A-384, the Town of Waynesville need not mail the notice required by that section when the entire zoning jurisdiction is being rezoned.

**SECTION 1.(b)** As a means of notifying the general public of the Town's intent to rezone the jurisdiction, the Town of Waynesville shall comply with the four published newspapers' notices of G.S. 160A-384(b).

**SECTION 1.(c)** The Town of Waynesville shall comply with the public hearing notices contained in G.S. 160A-364.

**SECTION 2.** This act applies to the Town of Waynesville only.

**SECTION 3.** This act is effective when it becomes law and expires January 1, 2004.

In the General Assembly read three times and ratified this the 26<sup>th</sup> day of March, 2003.

Became law on the date it was ratified.

**H.B. 382**

**Session Law 2003-4**

AN ACT TO ALLOW DISTRICT COURT JUDGES TO PERFORM MARRIAGE CEREMONIES.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 51-1 reads as rewritten:

"§ 51-1. **Requisites of marriage; solemnization.**

A valid and sufficient marriage is created by the consent of a male and female person who may lawfully marry, presently to take each other as husband and wife, freely, seriously and plainly expressed by each in the presence of the other, either:

- (1) a. In the presence of an ordained minister of any religious denomination, a minister authorized by a church, a district court judge of this State, or a magistrate; and
- b. With the consequent declaration by the ~~minister~~ minister, judge, or magistrate that the persons are husband and wife; or

- (2) In accordance with any mode of solemnization recognized by any religious denomination, or federally or State recognized Indian Nation or Tribe.

Marriages solemnized before March 9, 1909, by ministers of the gospel licensed, but not ordained, are validated from their consummation."

**SECTION 2.** This act is effective when it becomes law and expires March 31, 2003.

In the General Assembly read three times and ratified this the 27<sup>th</sup> day of March, 2003.

Became law upon approval of the Governor at 8:30 a.m. on the 28<sup>th</sup> day of March, 2003.

**S.B. 235**

**Session Law 2003-5**

AN ACT TO ALLOW A RETAILER THAT LEASES MOTOR VEHICLES AND THAT HAS PAID THE HIGHWAY USE TAX ON THE MOTOR VEHICLES TO PAY AN ADDITIONAL GROSS RECEIPTS TAX ON THE MOTOR VEHICLES.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Notwithstanding the provisions of G.S. 105-187.5 to the contrary, a retailer that leases or rents motor vehicles and that has paid the tax on the motor vehicles imposed pursuant to G.S. 105-187.3 may elect to pay the tax imposed pursuant to G.S. 105-187.5 in addition to the taxes previously paid. This election must be submitted to the Division of Motor Vehicles and Secretary of Revenue in writing and must specifically identify the motor vehicles to which the election applies, the date upon which the retailer will begin to collect the additional taxes, and any additional information needed to collect the tax. An election made under this act is irrevocable and does not relieve the taxpayer of liability for a tax previously imposed. An election under this act must be made prior to July 1, 2003.

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

In the General Assembly read three times and ratified this the 24<sup>th</sup> day of March, 2003.

Became law upon approval of the Governor at 8:33 a.m. on the 28<sup>th</sup> day of March, 2003.

**S.B. 307**

**Session Law 2003-6**

AN ACT TO EXTEND THE SUNSET PROVISION OF THE ACT THAT STRENGTHENED THE AUTHORITY OF THE STATE VETERINARIAN TO PREVENT AND CONTROL AN OUTBREAK OF FOOT-AND-MOUTH DISEASE AND ANY OTHER CONTAGIOUS ANIMAL DISEASE.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Section 11 of S.L. 2001-12 reads as rewritten:

"**SECTION 11.** This act is effective when it becomes law and expires ~~April 1, 2003.~~ 1 October 2005."

**SECTION 2.** This act becomes effective 1 April 2003.

In the General Assembly read three times and ratified this the 24<sup>th</sup> day of March, 2003.

Became law upon approval of the Governor at 6:16 p.m. on the 31<sup>st</sup> day of March, 2003.

**H.B. 135****Session Law 2003-7**

**AN ACT TO ANNEX CERTAIN DESCRIBED TERRITORY TO THE CORPORATE LIMITS OF THE CITY OF ROANOKE RAPIDS.**

*The General Assembly of North Carolina enacts:*

**SECTION 1.** The corporate limits of the City of Roanoke Rapids are extended to include the following described area:

"That certain tract or parcel of land lying and being situate in Weldon Township, Halifax County, North Carolina, and being more particularly described as follows: Beginning at a point on the eastern edge of the right-of-way for N. C. Highway 125 and at the southwest corner of Lot No.4 Chockoyotte Professional Park Subdivision, (See Plat Cabinet 5, Slide 129, Halifax Public Registry); thence from said point of beginning and along the lines of Lot No.4, N. 56-02-10 E. 244.73 feet and N. 28-33-40 W. 266.56 feet to a point at the southeast corner of Lot No.3, the same being the southwest corner of Lot No.2, Chockoyotte Professional Park Subdivision; thence along the south line of Lot No.3, N. 62-56-55 E. 241.51 feet to a point on the west side of a 50 foot right-of-way for Gregory Drive; thence crossing the right-of-way for Gregory Drive, N. 61-35-23 E. 50.00 feet; thence, along the eastern right-of-way line for Gregory Drive, N. 28-14-41 W. 17.30 feet and N. 28-05-32 W. 19.22 feet to a point in the eastern right-of-way line and at the southwest corner of Lot No.1, Chockoyotte Professional Park Subdivision; thence with the south line of Lot No.1, N. 56-02-14 E. 457.96 feet to a point in the centerline run of Chockoyotte Creek, at a point in the western boundary line of lands belonging to Halifax Regional Medical Center; thence with and along the centerline run of Chockoyotte Creek and the western line of Halifax Regional Medical Center the following courses and distances: S. 00-20-37 E. 237.36 feet, S. 49-24-11 E. 60.74 feet, S. 00-19-41 E. 164.22 feet, S. 62-29-49 E. 238.91 feet, S. 21-23-44 E. 325.11 feet, S. 39-05-52 E. 269.31 feet, S. 57-59-24 E. 225.40 feet, S. 33-00-24 E. 228.39 feet, S. 42-50-33 E. 147.61 feet, S. 24-27-36 E. 135.61 feet, S. 22-48-10 E. 113.15 feet, S. 52-24-35 E. 126.25 feet, S. 32-27-16 E. 431.17 feet, S. 43-05-55 E. 361.65 feet to the northwestern side of the right-of-way for Old Farm Road Extension, thence continuing across the right-of-way for Old Farm Road Extension, S. 43-05-55 E. 164.56 feet, and S. 25-53-13 E. 42.90 feet to a point in the southeastern side of the right-of-way for Old Farm Road Extension, thence continuing and along the centerline run of Chockoyotte Creek, which is also the western boundary lines of properties standing in the name of Roanoke Valley Rentals and Roanoke Meadowbrook LLC, the following courses and distances: S. 25-53-13 E. 351.36 feet, S. 46-01-36 E. 145.57 feet, S. 52-28-32 E. 404.56 feet, S. 26-47-11 E. 220.22 feet, S. 08-53-56 W. 161.79 feet, and S. 22-19-21 E. 157.68 feet to the northeastern corner of lands standing in the name of Blackwell B. Pierce, a point in the centerline run of Chockoyotte Creek and in the western line of lands standing in the name of Roanoke Meadowbrook LLC; thence leaving Chockoyotte Creek with and along the northern boundary of lands of Blackwell B. Pierce, S. 83-25-53 W. 1553.94 feet to a point in the southeastern right-of-way line

of Old Farm Road Extension; thence turning in a southerly direction along the southeastern right-of-way of Old Farm Road Extension and along the line of Blackwell B. Pierce, S. 21-57-39 W. 668.90 feet, and S. 20-36-16 W. 319.77 feet to a point in the southeastern right-of-way line of N. C. Highway 125 (where it merges with Old Farm Road Extension), thence turning across the right-of-way for N. C. Highway 125, N. 71-44-18 W. 60.00 feet to a point on the northwestern edge of the right-of-way for N. C. Highway 125, thence turning along the northwestern edge of the right-of-way for N. C. Highway 125 the following courses and distances: N. 18-15-42 E. 207.03 feet, N. 14-37-29 E. 124.75 feet, and N. 06-00-45 E. 169.13 feet to a point at the northeast corner of properties now or formerly belonging to the June Long Estate, and turning from said point and on a common boundary with those lands now or formerly belonging to the June Long Estate, with and along the main run of a swamp, the following courses and distances: S. 63-00-00 W. 119.58 feet, N. 85-00-00 W. 182.00 feet, S. 51-00-00 W. 257.00 feet, S. 50-00-00 W. 238.00 feet, S. 46-30-00 W. 184.00 feet, S. 65-00-00 W. 156.00 feet, S. 58-30-00 W. 226.00 feet, S. 38-30-00 W. 169.00 feet, S. 24-30-00 W. 179.00 feet, and S. 39-15-00 W. 312.00 feet to the southwest corner of the June Long Estate property the same being the northeast corner of property now or formerly belonging to Eddie Jones on the main run of the swamp and at the southwest corner of the tract herein described; thence, with and along the northeast boundary of the Eddie Jones land, the J. R. Crew Estate lands, and the Alonzo Pierce lands, N. 45-00-00 W. 164.00 feet, N. 46-21-23 W. 727.63 feet, N. 25-15-00 W. 432.00 feet, N. 23-00-00 W. 389.00 feet, and N. 25-15-00 W. 103.50 feet to the southwest corner of a lot belonging to Howard Owen Andleton and wife, as described in Deed Book 1452, Page 33, Halifax Public Registry, said point also being located at the center of a farm path; thence with and along the Andleton property boundary, N. 50-19-49 E. 200.00 feet, N. 25-15-00 W. 435.60 feet, and S. 50-13-00 W. 200.10 feet to the line of property now or formerly belonging to Benjamin Adams and at the northwest corner of the Andleton lot; thence, continuing with and along the common line with Benjamin Adams and the J. R. Crew Estate lands in a northwesterly direction, N. 25-15-00 W. 688.31 feet, N. 25-15-00 W. 479.00 feet, and N. 76-45-00 W. 56.00 feet to a corner in the line of lands now or formerly belonging to Jesse H. Powell Sutton; thence, with and along the property line of the Sutton land and the lands now or formerly belonging to R. L. Powell, the following courses and distances: N. 58-15-00 E. 664.00 feet, N. 27-45-00 E. 250.00 feet, N. 33-15-00 E. 100.00 feet, N. 22-15-00 E. 82.00 feet, N. 00-30-00 W. 240.00 feet, N. 42-30-00 W. 241.00 feet, N. 62-45-00 W. 341.00 feet, and N. 55-15-00 W. 550.92 feet to a point on the south side of a 60 foot right-of-way for N. C. State Road 1686 (Smith Church Road), and at the northeast corner of the R. L. Powell lands; thence, in an easterly direction with and along the southern right-of-way of N. C. State Road 1686, N. 70-30-52 E. 511.34 feet to a point at the centerline of the old road; thence, leaving N. C. State Road 1686 and continuing in an easterly direction with the centerline of the old road, N. 76-30-00 E. 320.00 feet to the northwestern corner of that certain 25.61 acre tract of land conveyed to Charles M. Edwards by Wiley N. Gregory, et al, under deeds of record at Deed Book 650, Page 3, and Deed Book 650, Page 4, Halifax Public Registry, said corner being at the center of the old road; thence, with and along the lines of the 25.61 acre Edwards tract, S. 07-55-01 E. 663.22 feet, S. 62-34-00 E. 390.10 feet, N. 63-54-00 E. 752.20 feet, and N. 41-31-00 E. 359.65 feet to the southwest side of the 60 foot right-of-way for N. C. Highway 125 and at the southeast corner of the 25.61 acre Edwards tract; thence, turning along the southwestern edge of N. C. Highway 125, N. 33-34-05 W. 133.46 feet and N. 30-17-04 W. 69.45 feet, thence turning across the

right-of-way for N. C. Highway 125, N. 70-54-14 E. 61.16 feet to the point of beginning, containing 318.31 acres, more or less, and as shown on that certain plat entitled "Annexation Plat - Lands Along N. C. 125 South - City of Roanoke Rapids, North Carolina" done by Burr & Associates, P. A., and dated May 16, 2000, and revised December 13, 2002."

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

In the General Assembly read three times and ratified this the 31<sup>st</sup> day of March, 2003.

Became law on the date it was ratified.

## H.B. 340

## Session Law 2003-8

AN ACT TO GIVE LOCAL BOARDS OF EDUCATION ADDITIONAL FLEXIBILITY WITH REGARD TO INSTRUCTIONAL TIME LOST DUE TO INCLEMENT WEATHER.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 115C-84.2(a)(1) reads as rewritten:

"(a) School Calendar. – Each local board of education shall adopt a school calendar consisting of 220 days all of which shall fall within the fiscal year. A school calendar shall include the following:

- (1) A minimum of 180 days and 1,000 hours of instruction covering at least nine calendar months. The local board shall designate when the 180 instructional days shall occur. The number of instructional hours in an instructional day may vary according to local board policy and does not have to be uniform among the schools in the administrative unit. Local boards may approve school improvement plans that include days with varying amounts of instructional time. If school is closed early due to inclement weather, the day and the scheduled amount of instructional hours may count towards the required minimum to the extent allowed by State Board policy. The school calendar shall include a plan for making up days and instructional hours missed when schools are not opened due to inclement weather.

- (1a) Notwithstanding subdivision (1) of this subsection, a local board may decide to make up a maximum of three instructional days by adding instructional hours to previously scheduled instructional days. A local board shall make this decision only if all of the following criteria are met:

- a. The days to be made up were missed when schools were unable to be opened due to unusual and extraordinary inclement weather conditions.
- b. It would cause undue hardship to parents, children, and teachers to make up those days.
- c. The school calendar continues to have a minimum of 1,000 instructional hours covering at least nine months.
- d. The additional hours must equal the regularly scheduled number of instructional hours at each school.

If a local board adds instructional hours to previously scheduled days under this subdivision, the local school administrative unit is deemed

to have a minimum of 180 days of instruction, teachers employed for a 10-month term are deemed to have been employed for the days being made up, and all other employees shall be compensated as if they had worked the days being made up.

...."

**SECTION 2.** This act applies only to the 2002-2003 school year.

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

In the General Assembly read three times and ratified this the 3<sup>rd</sup> day of April, 2003.

Became law upon approval of the Governor at 12:11 p.m. on the 4<sup>th</sup> day of April, 2003.

## H.B. 432

## Session Law 2003-9

AN ACT PROVIDING THAT STATE EMPLOYEES, PUBLIC SCHOOL EMPLOYEES, AND COMMUNITY COLLEGE EMPLOYEES MAY SHARE LEAVE VOLUNTARILY.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 126-8.3 reads as rewritten:

"§ **126-8.3. Voluntary shared leave.**

The State Personnel Commission, in cooperation with the State Board of Community Colleges and the State Board of Education, shall adopt rules and policies to allow any employee at a State agency to share leave voluntarily with an immediate family member who is an employee of a State ~~agency or agency, community college, or~~ public school. For the purposes of this section, the term "immediate family member" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships."

**SECTION 2.** G.S. 115C-12.2 reads as rewritten:

"§ **115C-12.2. Voluntary shared leave.**

The State Board of Education, in cooperation with the State Board of Community Colleges and the State Personnel Commission, shall adopt rules and policies to allow any employee at a public school to share leave voluntarily with an immediate family member who is an employee of a public ~~school or school, community college, or~~ State agency. For the purposes of this section, the term "immediate family member" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships."

**SECTION 3.** Article 2 of Chapter 115D of the General Statutes is amended by adding a new section to read:

"§ **115D-25.3. Voluntary shared leave.**

The State Board of Community Colleges, in cooperation with the State Board of Education and the State Personnel Commission, shall adopt rules and policies to allow any employee at a community college to share leave voluntarily with an immediate family member who is an employee of a community college, public school, or State agency. For the purposes of this section, the term "immediate family member" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.

**SECTION 4.** Prior to the adoption of any rules pursuant to this Act:

(a) The president of any community college shall allow any employee of that community college to share leave voluntarily with an immediate family member, as defined in Section 3 of this Act, who is an employee of a community college, public school, or State agency; and

(b) Community colleges, public schools, and State agencies shall permit eligible employees to receive leave pursuant to this Act.

**SECTION 5.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 31<sup>st</sup> day of March, 2003.

Became law upon approval of the Governor at 7:05 p.m. on the 10<sup>th</sup> day of April, 2003.

**H.B. 482**

**Session Law 2003-10**

AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE AN ALPHA KAPPA ALPHA SORORITY SPECIAL REGISTRATION PLATE.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 20-79.4(b) reads as rewritten:

"(b) Types. – The Division shall issue the following types of special registration plates:

...

(1c) Alpha Kappa Alpha Sorority. – Issuable to the registered owner of a motor vehicle. The plate shall bear the sorority's symbol and name. The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate."

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

In the General Assembly read three times and ratified this the 10<sup>th</sup> day of April, 2003.

Became law upon approval of the Governor at 7:06 p.m. on the 10<sup>th</sup> day of April, 2003.

**H.B. 237**

**Session Law 2003-11**

AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE SPECIAL REGISTRATION PLATES TO SUPPORT NURSING SCHOLARSHIPS IN NORTH CAROLINA.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 20-79.4(b) reads as rewritten:

"(b) Types. – The Division shall issue the following types of special registration plates:

...

(28g) Nurses. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the phrase "First in Nursing" and a representation relating to nursing."

**SECTION 2.** G.S. 20-79.7(a) reads as rewritten:



"(a) Fees. – Upon request, the Division shall provide and issue free of charge one registration plate to a recipient of the Congressional Medal of Honor, a 100% disabled veteran, and an ex-prisoner of war. All other special registration plates, including additional Congressional Medal of Honor, 100% Disabled Veteran, and Ex-Prisoner of War plates, are subject to the regular motor vehicle registration fee in G.S. 20-87 or G.S. 20-88 plus an additional fee in the following amount:

<u>Special Plate</u>	<u>Additional Fee Amount</u>
Historical Attraction	\$30.00
State Attraction	\$30.00
Collegiate Insignia	\$25.00
Goodness Grows	\$25.00
Kids First	\$25.00
Olympic Games	\$25.00
NC Agribusiness	\$25.00
<u>Nurses</u>	<u>\$25.00</u>
Special Olympics	\$25.00
The V Foundation for Cancer Research Division	\$25.00
University Health Systems of Eastern Carolina	\$25.00
Animal Lovers	\$20.00
Audubon North Carolina	\$20.00
Ducks Unlimited	\$20.00
Harley Owners' Group	\$20.00
First in Forestry	\$20.00
Litter Prevention	\$20.00
March of Dimes	\$20.00
Omega Psi Phi Fraternity	\$20.00
Rocky Mountain Elk Foundation	\$25.00
Save the Sea Turtles	\$20.00
Scenic Rivers	\$20.00
School Technology	\$20.00
Soil and Water Conservation	\$20.00
Special Forces Association	\$20.00
Support Public Schools	\$20.00
Wildlife Resources	\$20.00
Personalized	\$20.00
Active Member of the National Guard	None
100% Disabled Veteran	None
Ex-Prisoner of War	None
Legion of Valor	None
Purple Heart Recipient	None
Silver Star Recipient	None
All Other Special Plates	\$10.00."

**SECTION 3.** G.S. 20-79.7(b) reads as rewritten:

"(b) Distribution of Fees. – The Special Registration Plate Account and the Collegiate and Cultural Attraction Plate Account are established within the Highway Fund. The Division must credit the additional fee imposed for the special registration plates listed in subsection (a) among the Special Registration Plate Account (SRPA), the Collegiate and Cultural Attraction Plate Account (CCAPA), and the Natural Heritage Trust Fund (NHTF), which is established under G.S. 113-77.7, as follows:

<u>Special Plate</u>	<u>SRPA</u>	<u>CCAPA</u>	<u>NHTF</u>
Animal Lovers	\$10	\$10	0
Audubon North Carolina	\$10	\$10	0
Ducks Unlimited	\$10	\$10	0
First in Forestry	\$10	0	\$10
Goodness Grows	\$10	\$15	0
Harley Owners' Group	\$10	\$10	0
Historical Attraction	\$10	\$20	0
In-State Collegiate Insignia	\$10	\$15	0
Kids First	\$10	\$15	0
Litter Prevention	\$10	\$10	0
March of Dimes	\$10	\$10	0
NC Agribusiness	\$10	\$15	0
<u>Nurses</u>	<u>\$10</u>	<u>\$15</u>	<u>0</u>
Olympic Games	\$10	\$15	0
Omega Psi Phi Fraternity	\$10	\$10	0
Out-of-state Collegiate Insignia	\$10	0	\$15
Personalized	\$10	0	\$10
Rocky Mountain Elk Foundation	\$10	\$15	0
Save the Sea Turtles	\$10	\$10	0
Scenic Rivers	\$10	\$10	0
School Technology	\$10	\$10	0
Soil and Water Conservation	\$10	\$10	0
Special Forces Association	\$10	\$10	0
Special Olympics	\$10	\$10	0
State Attraction	\$10	\$20	0
Support Public Schools	\$10	\$10	0
The V Foundation for Cancer Research	\$10	\$15	0
University Health Systems of Eastern Carolina	\$10	\$15	0
Wildlife Resources	\$10	\$10	0
All other Special Plates	\$10	0	0."

**SECTION 4.** G.S. 20-81.12 is amended by adding a new subsection to read:

"(b24) Nurses. – The Division must receive 300 or more applications for a Nurses plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Nurses plates to the NC Foundation for Nursing for nursing scholarships for citizens of North Carolina to be awarded annually."

**SECTION 5.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 2<sup>nd</sup> day of April, 2003.

Became law upon approval of the Governor at 7:08 p.m. on the 10<sup>th</sup> day of April, 2003.

**H.B. 549****Session Law 2003-12**

AN ACT TO ESTABLISH THE ELECTION FUND REQUIRED BY THE HELP AMERICA VOTE ACT OF 2002 (HAVA) AS A CONDITION FOR RECEIVING FEDERAL FUNDS UNDER THAT ACT.

Whereas, in 2002, Congress enacted the Help America Vote Act of 2002 (HAVA), Public Law 107-252, entitled an act to establish a program to provide funds to states to replace punch card voting systems, to establish the Election Assistance Commission to assist in the administration of federal elections and to otherwise provide assistance with the administration of certain federal election laws and programs, to establish minimum election administration standards for states and units of local government with responsibility for the administration of federal elections, and for other purposes; and has appropriated over thirty-one million dollars (\$31,000,000) to the State of North Carolina for the current fiscal year; and

Whereas, Section 254(b) of HAVA requires each state receiving funds to establish a fund to receive and disburse these funds; Now, therefore,

*The General Assembly of North Carolina enacts:*

**SECTION 1.** There is established a special fund to be known as the Election Fund. All funds received for implementation of the Help America Vote Act of 2002, Public Law 107-252, shall be deposited in that fund. The State Board of Elections shall use funds in the Election Fund only to implement HAVA.

**SECTION 2.** G.S. 147-69.2(a) is amended by adding a new subdivision to read:

"(17d) The Election Fund."

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

In the General Assembly read three times and ratified this the 15<sup>th</sup> day of April, 2003.

Became law upon approval of the Governor at 12:30 p.m. on the 16<sup>th</sup> day of April, 2003.

**H.B. 36****Session Law 2003-13**

AN ACT TO REPEAL THE LAW THAT AUTHORIZES THE INVOLUNTARY STERILIZATION OF PERSONS WHO ARE MENTALLY ILL OR MENTALLY RETARDED, TO PERMIT THE STERILIZATION OF MENTALLY ILL OR MENTALLY RETARDED WARDS ONLY WHEN THERE IS A MEDICAL NECESSITY, AND TO MAKE CONFORMING CHANGES TO THE GENERAL STATUTES.

*The General Assembly of North Carolina enacts:*

**PART I. REPEALS THE LAW AUTHORIZING INVOLUNTARY STERILIZATIONS AND PERMITS THE STERILIZATION OF MENTALLY ILL OR MENTALLY RETARDED WARDS ONLY WHEN THERE IS A MEDICAL NECESSITY.**

**SECTION 1.** Article 7 of Chapter 35 of the General Statutes is repealed.

**SECTION 1.(a)** Article 8 of Chapter 35A is amended by adding a new section to read:

**"§ 35A-1245. Procedure to permit the sterilization of a mentally ill or a mentally retarded ward in the case of medical necessity.**

(a) A guardian of the person shall not consent to the sterilization of a mentally ill or mentally retarded ward unless an order from the clerk has been obtained in accordance with this section.

(b) If a mentally ill or mentally retarded ward needs to undergo a medical procedure that would result in sterilization, the ward's guardian shall petition the clerk for an order to permit the guardian to consent to the procedure. The petition shall contain the following:

- (1) A sworn statement from a physician licensed in this State who has examined the ward that the proposed procedure is medically necessary and not for the sole purpose of sterilization or for the purpose of hygiene or convenience.
- (2) The name and address of the physician who will perform the procedure.
- (3) A sworn statement from a psychiatrist or psychologist licensed in this State who has examined the ward as to whether the mentally ill or mentally retarded ward is able to comprehend the nature of the proposed procedure and its consequences and provide an informed consent to the procedure.
- (4) If the ward is able to comprehend the nature of the proposed procedure and its consequences, the sworn consent of the ward to the procedure.

(c) A copy of the petition shall be served on the ward personally. If the ward is unable to comprehend the nature of the proposed procedure and its consequences and is unable to provide an informed consent, the clerk shall appoint an attorney to represent the ward.

(d) Should the ward or the ward's attorney request a hearing, a hearing shall be held. Otherwise, the clerk may enter an order without the appearance of witnesses. If a hearing is held, the guardian and the ward may present evidence.

(e) If the clerk finds the following, the clerk shall enter an order permitting the guardian to consent to the proposed procedure:

- (1) The ward is capable of comprehending the procedure and its consequences and has consented to the procedure, or the ward is unable to comprehend the procedure and its consequences.
- (2) The procedure is medically necessary and is not solely for the purpose of sterilization or for hygiene or convenience.

(f) The guardian or the ward, the ward's attorney, or any other interested party may appeal the clerk's order to the superior court in accordance with G.S. 1-301.2(e)."

**PART II. CONFORMING CHANGES TO THE GENERAL STATUTES.**

**SECTION 2.** G.S. 1-301.2(g) reads as rewritten:

"(g) Exception for Incompetency and Foreclosure ~~Proceedings~~Proceedings and Proceedings to Permit Sterilization for Medical Necessity. –

- (1) Proceedings for adjudication of incompetency or restoration of competency under Chapter 35A of the General Statutes, or proceedings to determine whether a guardian may consent to the sterilization of a mentally ill or mentally retarded ward under G.S. 35A-1245, shall not be transferred even if an issue of fact, an equitable defense, or a request for equitable relief is raised. Appeals from orders

entered in these proceedings are governed by Chapter 35A to the extent that the provisions of that Chapter conflict with this section.

- (2) Foreclosure proceedings under Article 2A of Chapter 45 of the General Statutes shall not be transferred even if an issue of fact, an equitable defense, or a request for equitable relief is raised. Equitable issues may be raised only as provided in G.S. 45-21.34. Appeals from orders entered in these proceedings are governed by Article 2A of Chapter 45 to the extent that the provisions of that Article conflict with this section."

**SECTION 2.(a)** G.S. 7A-451(a)(10) is repealed.

**SECTION 3.** G.S. 35A-1203(e) reads as rewritten:

"(e) Where a guardian or trustee has been appointed for a ward under former Chapter 33 or former Chapter 35 of the General Statutes, the clerk, upon his own motion or the motion of that guardian or trustee or any other interested person, may designate that guardian or trustee or appoint another qualified person as guardian of the person, guardian of the estate, or general guardian of the ward under this Chapter; provided, the authority of a guardian or trustee properly appointed under former Chapter 33 or former Chapter 35 of the General Statutes to continue serving in that capacity is not dependent on such motion and designation."

**SECTION 4.** G.S. 35A-1241(a) reads as rewritten:

"(a) To the extent that it is not inconsistent with the terms of any order of the clerk or any other court of competent jurisdiction, a guardian of the person has the following powers and duties:

- (1) The guardian of the person is entitled to custody of the person of ~~his~~the guardian's ward and shall make provision for ~~his~~the ward's care, comfort, and maintenance, and shall, as appropriate to the ward's needs, arrange for ~~his~~ the ward's training, education, employment, rehabilitation or habilitation. The guardian of the person shall take reasonable care of the ward's clothing, furniture, vehicles, and other personal effects that are with the ward.
- (2) The guardian of the person may establish the ward's place of abode within or without this State. In arranging for a place of abode, the guardian of the person shall give preference to places within this State over places not in this State if in-State and out-of-State places are substantially equivalent. ~~He~~ The guardian also shall give preference to places that are not treatment facilities. If the only available and appropriate places of domicile are treatment facilities, ~~he~~the guardian shall give preference to community-based treatment facilities, such as group homes or nursing homes, over treatment facilities that are not community-based.
- (3) The guardian of the person may give any consent or approval that may be necessary to enable the ward to receive medical, legal, psychological, or other professional care, counsel, treatment, or service. ~~He~~ The guardian ~~may~~ shall not, however, consent to the sterilization of a mentally ill or mentally retarded ~~ward~~. ~~Such sterilization may be performed only after compliance with Chapter 35, Article 7.~~ ward unless the guardian obtains an order from the clerk in accordance with G.S. 35A-1245. The guardian of the person may give any other consent or approval on the ward's behalf that may be

required or in the ward's best interest. ~~He~~The guardian may petition the clerk for the clerk's concurrence in the consent or approval."

**SECTION 5.** G.S. 90-21.13(e) reads as rewritten:

"(e) In the event of any conflict between the provisions of this section and those of ~~Article 7 of Chapter 35 and G.S. 35A-1245 and Articles 1A and 19 of Chapter 90~~, the provisions of those Articles shall control and continue in full force and effect."

**SECTION 6.** G.S. 90-275 reads as rewritten:

**"§ 90-275. Article does not affect eugenical or therapeutical sterilization laws. duty of guardian to obtain order permitting guardian to consent to sterilization of a mentally ill or mentally retarded ward.**

Nothing in this Article shall be deemed to affect the provisions of ~~Article 7 of Chapter 35 of the General Statutes of North Carolina. G.S. 35A-1245.~~"

**SECTION 7.** G.S. 108A-14(a)(10) is repealed.

**SECTION 8.** G.S. 148-22.2 reads as rewritten:

**"§ 148-22.2. Procedure when surgical operations on inmates are necessary.**

The medical staff of any penal institution of the State of North Carolina is hereby authorized to perform or cause to be performed by competent and skillful surgeons surgical operations upon any inmate when such operation is necessary for the improvement of the physical condition of the inmate. The decision to perform ~~such an~~ operation shall be made by the chief medical officer of the institution, with the approval of the superintendent of the institution, and with the advice of the medical staff of ~~said~~ the institution. No ~~such~~ operation shall be performed without the consent of the inmate; or, if the inmate ~~be~~ is a minor, without the consent of a responsible member of ~~his~~ the inmate's family, a guardian, or one having legal custody of ~~such~~ the minor; or, if the inmate be non compos mentis, then the consent of a responsible member of ~~his~~ the inmate's family or of a guardian ~~must~~ shall be obtained. Any surgical operations on inmates of State penal institutions shall also be subject to the provisions of Article 1A of Chapter 90 of the General Statutes and G.S. 90-21.13 and G.S. 90-21.14.

If the operation on the inmate is determined by the chief medical officer to be an emergency situation in which immediate action is necessary to preserve the life or health of the inmate, and the inmate, if sui juris, is unconscious or otherwise incapacitated so as to be incapable of giving consent or in the case of a minor or inmate non compos mentis, the consent of a responsible member of ~~his~~ the inmate's family, guardian, or one having legal custody of ~~such~~ the inmate cannot be obtained within the time necessitated by the nature of the emergency situation, then the decision to proceed with the operation shall be made by the chief medical officer and the superintendent of the institution with the advice of the medical staff of the institution.

In all cases falling under this Article [section], the chief medical officer of the institution and the medical staff of the institution shall keep a careful and complete record of the measures taken to obtain the permission for ~~such~~ the operation and a complete medical record signed by the medical superintendent or director, the surgeon performing the operation and all surgical consultants of the operation performed.

~~This Article [section] is not to be considered as affecting the provisions of Article 7 of Chapter 35 of the General Statutes dealing with eugenical sterilization."~~

**SECTION 9.** This act is effective when it becomes law and applies to all petitions for sterilization pending and orders authorizing sterilization that have not been executed as of the effective date of this act.

In the General Assembly read three times and ratified this the 7<sup>th</sup> day of April, 2003.

Became law upon approval of the Governor at 10:35 a.m. on the 17<sup>th</sup> day of April, 2003.

**S.B. 2****Session Law 2003-14**

AN ACT TO ALLOW CERTAIN APPLICANTS FOR DRIVERS LICENSES TO SUBMIT MEDICAL CERTIFICATES FROM OUT-OF-STATE PHYSICIANS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 20-9(g)(2) reads as rewritten:

"(g) The Division may issue a driver's license to any applicant covered by subsection (e) of this section under the following conditions:

...

- (2) The Division shall not issue a license pursuant to this section unless the applicant has submitted to a physical examination by a physician or surgeon duly licensed to practice medicine in this State or in any other state of the United States and unless such examining physician or surgeon has completed and signed the certificate required by subdivision (1). Such certificate shall be devised by the Commissioner with the advice of qualified experts in the field of diagnosing and treating physical and mental disorders as he may select to assist him and shall be designed to elicit the maximum medical information necessary to aid in determining whether or not it would be a hazard to public safety to permit the applicant to operate a motor vehicle, including, if such is the fact, the examining physician's statement that the applicant is under medication and treatment and that such person's physical or mental disability is controlled. The certificate shall contain a waiver of privilege and the recommendation of the examining physician to the Commissioner as to whether a license should be issued to the applicant."

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

In the General Assembly read three times and ratified this the 10<sup>th</sup> day of April, 2003.

Became law upon approval of the Governor at 2:10 p.m. on the 19<sup>th</sup> day of April, 2003.

**S.B. 440****Session Law 2003-15**

AN ACT TO ALLOW THE COURT TO ISSUE AN ORDER FOR ARREST WHEN A DEFENDANT FAILS TO APPEAR IN COURT AFTER RECEIVING A CITATION FOR A MISDEMEANOR.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 15A-302(f) reads as rewritten:

"(f) Citation No Bar to Criminal Summons or Warrant. – If the offense is a misdemeanor, a criminal summons or a warrant may issue notwithstanding the prior issuance of a citation for the same offense. If a defendant fails to appear in court as

directed by a citation that charges the defendant with a misdemeanor, an order for arrest for failure to appear may be issued by a judicial official."

**SECTION 2.** G.S. 15A-305(b) reads as rewritten:

"(b) When Issued. – An order for arrest may be issued when:

- (1) A grand jury has returned a true bill of indictment against a defendant who is not in custody and who has not been released from custody pursuant to Article 26 of this Chapter, Bail, to answer to the charges in the bill of indictment.
- (2) A defendant who has been arrested and released from custody pursuant to Article 26 of this Chapter, Bail, fails to appear as required.
- (3) The defendant has failed to appear as required by a duly executed criminal summons issued pursuant to G.S. 15A-303. G.S. 15A-303 or a citation issued by a law enforcement officer or other person authorized by statute pursuant to G.S. 15A-302 that charged the defendant with a misdemeanor.
- (4) A defendant has violated the conditions of probation.
- (5) In any criminal proceeding in which the defendant has become subject to the jurisdiction of the court, it becomes necessary to take the defendant into custody.
- (6) It is authorized by G.S. 15A-803 in connection with material witness proceedings.
- (7) The common-law writ of *capias* has heretofore been issuable.
- (8) When a defendant fails to appear as required in a show cause order issued in a criminal proceeding.
- (9) It is authorized by G.S. 5A-16 in connection with contempt proceedings."

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

In the General Assembly read three times and ratified this the 10<sup>th</sup> day of April, 2003.

Became law upon approval of the Governor at 2:15 p.m. on the 19<sup>th</sup> day of April, 2003.

## H.B. 646

## Session Law 2003-16

### AN ACT TO CHANGE THE MANNER OF CHOOSING THE MEMBERS OF THE CURRITUCK COUNTY GAME COMMISSION.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Section 5 of Chapter 1436 of the 1957 Session Laws, as amended by Chapter 622 of the 1981 Session Laws, reads as rewritten:

"Sec. 5. A Game Commission of Currituck County is hereby created which Commission shall consist of five members, each of whom shall be thoroughly acquainted with migratory water fowl shooting both ashore and afloat. The Game Commission shall be selected and appointed by the Board of County Commissioners of Currituck County, but no member shall be removed except upon the unanimous vote of all the members of the board of commissioners. ~~One member of said Commission shall be chosen from the district South of the Narrows, one from the district North of the Narrows and South of the northerly end of Church's Island, one from the district North of Church's Island on the westerly side of the Sound, one from the district North of~~



~~Church's Island on the easterly side of the Sound, and one from the district North of Currituck Courthouse on the westerly side of the Sound. One member shall be chosen from each of the four townships of Currituck County and one member shall be appointed to serve at large.~~ In the event of a vacancy, successors to the members of the Commission shall be similarly appointed.

The members of said Game Commission shall be appointed by the board of county commissioners on the first Monday in July, 1957 and thereafter on the first Monday of June of each year as terms expire, and shall hold their offices for terms of two years, or until their successors are appointed and qualified, provided the terms of those appointed on the first Monday of July, 1957, shall expire on the first Monday of June, ~~1959.~~ Provided 1959, and provided that present members serving on date of ratification shall finish their ~~term-terms.~~

The said Game Commission acting with the North Carolina Wildlife Resources Commission shall have charge of the enforcement of this and all migratory wild fowl game laws in Currituck County, and the said Game commission acting with the North Carolina Wildlife Resources Commission shall have the power and authority to prescribe rules and regulations for the enforcement of such game laws and the protection of wild fowl life in said county, not inconsistent with the provisions of this Act. It is expressly provided that said Game Commission may establish sanctuaries or rest areas in which no wild fowl may be shot, hunted or disturbed."

**SECTION 2.** This act becomes effective June 1, 2003.

In the General Assembly read three times and ratified this the 21<sup>st</sup> day of April, 2003.

Became law on the date it was ratified.

### S.B. 396

### Session Law 2003-17

AN ACT TO ANNEX THE RIGHT-OF-WAY OF MCMILLAN STREET TO THE CORPORATE LIMITS OF THE CITY OF RAEFORD.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** The corporate limits of the City of Raeford are extended to include the following described property:

A certain tract or parcel of land in Raeford Township, Hoke County, North Carolina, adjacent to the City of Raeford, being further described as follows:

Beginning at an iron pipe on the southeast side of N.C.S.R. No. 1463, McMillan Street, said iron pipe being the west corner of the Franklin Kemp Crumpler tract described in Deed Book 456, at Page 803 in the Hoke County Registry and shown as Tract No. 1 on a plat entitled "Survey for Linwood E. Huffman and wife, Helen H. Huffman" and recorded in Slide 397, Map No. 006, said beginning corner also being the north corner of the Harold Keith Jackson 3.902 acre tract as described in Deed Book 351, at Page 316 and shown on a plat entitled "Survey for Harold Keith Jackson" and recorded in Slide 386, at Map No. 007;

THENCE from the beginning as line of Harold Keith Jackson, South 45 degrees 43 minutes 55 seconds West for a distance of 230.03 feet to a rebar;

THENCE as line of Jackson, South 42 degrees 24 minutes 32 seconds West for a distance of 99.99 feet to a rebar;

THENCE as a line of Jackson, South 32 degrees 26 minutes 07 seconds West for a distance of 116.96 feet to an iron pipe, a common corner of Harold Keith Jackson and Emmett Steele, Jr. (D.B. 351, Pg. 305);

THENCE as line of Steele, South 28 degrees 25 minutes 33 seconds West for a distance of 82.77 feet;

THENCE as a line of Steele, South 10 degrees 31 minutes 07 seconds West for a distance of 100.00 feet;

THENCE as line of Steele, South 03 degrees 16 minutes 07 seconds West for a distance of 48.00 feet to a flat iron, a common corner of said Emmett Steele, Jr. tracts described in Deed Book 351, at Page 305 and Deed Book 340, at Page 342;

THENCE as a line of Steele (D.B. 340, Pg. 342), South 03 degrees 16 minutes 07 seconds West for a distance of 210.00 feet to the southwest corner of Steele in the north right of way line of Prospect Avenue;

THENCE crossing N.C.S.R. No. 1463, McMillan Street, North 76 degrees 54 minutes 08 seconds West for a distance of 40.60 feet to the intersection of the north right of way of Prospect Avenue and the west right of way line of McMillan Street, the southeast corner of James E. Douglas (D.B. 128, Pg. 051);

THENCE as the east line of Douglas, the east line of Lot No. 1 as shown on a plat entitled "Subdivision of Raeford Power and Manufacturing" and recorded in Map Book 3, at Page 76, North 03 degrees 04 minutes 40 seconds East for a distance of 218.62 feet to an iron pipe, the northeast corner of Douglas;

THENCE as the east line of the James Douglas' Lot No. 1-A, Subdivision of Raeford Power and Manufacturing, North 03 degrees 22 minutes 07 seconds East for a distance of 200.25 feet to an iron pipe, the northeast corner of the James Douglas Lot No. 1-A and the southeast corner of the James E. Douglas tract described in Deed Book 212, at Page 123;

THENCE as a southeast line of Douglas (D.B. 212, Pg. 123A), North 37 degrees 09 minutes 39 seconds East for a distance of 173.52 feet to a corner of Douglas;

THENCE continuing as a southeast line of Douglas, North 43 degrees 15 minutes 43 seconds East for a distance of 83.95 feet to an iron rod, a common corner of Douglas and Lot No. 27 as shown on a plat entitled "Highlanders Crossing - Phase One" as recorded in Slide 2-48, Plat No. 006;

THENCE as the southeast line of Lot No. 27, North 46 degrees 43 minutes 39 seconds East for a distance of 100.45 feet to a rebar, a common corner of Lot Nos. 27 and 28;

THENCE as the southeast line of Lot No. 28, North 47 degrees 06 minutes 27 seconds East for a distance of 150.02 feet to a rebar, a common corner of Lot Nos. 28 and 29;

THENCE as the southeast line of Lot No. 29, North 47 degrees 06 minutes 03 seconds East for a distance of 154.48 feet to a rebar, the east corner of Lot No. 28;

THENCE North 47 degrees 02 minutes 10 seconds East for a distance of 60.00 feet to a rebar, the south corner of Lot No. 30;

THENCE as the southeast line of Lot No. 30, North 47 degrees 02 minutes 57 seconds East for a distance of 150.03 feet to a rebar, a common corner of Lot No. 30 and the W.E. Carter 0.189 acre tract described in Deed Book 409, at Page 494;

THENCE as the southeast line of Carter, North 47 degrees 03 minutes 31 seconds East for a distance of 89.65 feet to a rebar, a corner of said Carter 0.189 acre tract in a south line of the W.E. Carter tract described in Deed Book 218, at Page 158;

THENCE as the south line of Carter, North 77 degrees 57 minutes 08 seconds East for a distance of 84.84 feet to an iron pipe, a corner of the Franklin Kemp Crumpler tract as described in Deed Book 360, at Page 429 and shown as Tract No. 2, 4.18 acres on the

aforementioned "Survey for Linwood E. Huffman and Helen H. Huffman" plat (Slide 397, Map No. 006);

THENCE as a common line with Crumpler, South 50 degrees 56 minutes 46 seconds West for a distance of 99.45 feet to an iron, a corner of Crumpler;

THENCE as a northwest line of Crumpler, South 44 degrees 59 minutes 48 seconds West for a distance of 319.80 feet to a rebar, a common corner of the aforementioned Franklin Kemp Crumpler tracts (D.B. 360, Pg. 429, and D.B. 456, Pg. 803);

THENCE as a line of Crumpler, South 44 degrees 59 minutes 48 seconds West for a distance of 105.00 feet to the beginning.

Said property contains 1.596 acres more or less.

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

In the General Assembly read three times and ratified this the 22<sup>nd</sup> day of April, 2003.

Became law on the date it was ratified.

**S.B. 419**

**Session Law 2003-18**

AN ACT TO ADD CERTAIN PROPERTY TO THE CORPORATE LIMITS OF THE TOWN OF CHADBOURN.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** The following described property is added to the corporate limits of the Town of Chadbourn:

Beginning at an iron stake, said stake being located in the southeastern corner of the lands hereinafter described and said beginning stake being further located north 86 degrees 47 minutes west 300.00 feet to an iron stake located in the western margin of S.R. 1562, which stake is located north 2 degrees 35 minutes east 182.93 feet from a right-of-way monument which right-of-way monument is located north 14 degrees 48 minutes east 218.63 feet from another right-of-way monument which is located in the northwestern corner of the intersection of S.R. 1562 and U.S. Highway 76 bypass, and runs thence from the beginning stake and with one of Ralph Nance's lines north 2 degrees 33 minutes east 200.00 feet to an iron stake, and runs thence north 86 degrees 47 minutes west 200.00 feet to an iron stake; and runs thence south 2 degrees 33 minutes west 200.00 feet to an iron stake, and runs thence south 86 degrees 47 minutes east 200.00 feet to an iron stake, the point of beginning and containing 0.92 acres, more or less.

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

In the General Assembly read three times and ratified this the 22<sup>nd</sup> day of April, 2003.

Became law on the date it was ratified.

**S.B. 784**

**Session Law 2003-19**

AN ACT CONCERNING BONDING OF CERTAIN JUDGMENTS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Article 17A of Chapter 1C of the General Statutes is repealed.

**SECTION 2.** G.S. 1C-1705 reads as rewritten:**"§ 1C-1705. Defenses; ~~procedure.~~ procedure; stay.**

(a) The judgment debtor may file a motion for relief from, or notice of defense to, the foreign judgment on the grounds that the foreign judgment has been appealed from, or enforcement has been stayed by, the court which rendered it, or on any other ground for which relief from a judgment of this State would be allowed. Notwithstanding subsection (b) of this section, the court shall stay enforcement of the foreign judgment for an appropriate period if the judgment debtor shows that:

- (1) The foreign judgment has been stayed by the court that rendered it; or
- (2) An appeal from the foreign judgment is pending or the time for taking an appeal has not expired and the judgment debtor executes a written undertaking in the same manner and amount as would be required in the case of a judgment entered by a court of this State under G.S. 1-289.

(b) If the judgment debtor has filed a motion for relief or notice of defenses then the judgment creditor may move for enforcement of the foreign judgment as a judgment of ~~this State~~ this State, unless the court stays enforcement of the judgment under subsection (a) of this section. The judgment creditor's motion shall be heard before a judge of the trial division which would be the proper division for the trial of an action in which the amount in controversy is the same as the amount remaining unpaid on the foreign judgment. The Rules of Civil Procedure (G.S. 1A-1) shall apply. The judgment creditor shall have the burden of proving that the foreign judgment is entitled to full faith and credit."

**SECTION 3.** G.S. 1-289 reads as rewritten:**"§ 1-289. Undertaking to stay execution on money judgment.**

(a) If the appeal is from a judgment directing the payment of money, it does not stay the execution of the judgment unless a written undertaking is executed on the part of the appellant, by one or more sureties, to the effect that if the judgment appealed from, or any part thereof, is affirmed, or the appeal is dismissed, the appellant will pay the amount directed to be paid by the judgment, or the part of such amount as to which the judgment shall be affirmed, if affirmed only in part, and all damages which shall be awarded against the appellant upon the ~~appeal~~ appeal, except as provided in subsection (b) of this section. Whenever it is satisfactorily made to appear to the court that since the execution of the undertaking the sureties have become insolvent, the court may, by rule or order, require the appellant to execute, file and serve a new undertaking, as above. In case of neglect to execute such undertaking within twenty days after the service of a copy of the rule or order requiring it, the appeal may, on motion to the court, be dismissed with costs. Whenever it is necessary for a party to an action or proceeding to give a bond or an undertaking with surety or sureties, he may, in lieu thereof, deposit with the officer into court money to the amount of the bond or undertaking to be given. The court in which the action or proceeding is pending may direct what disposition shall be made of such money pending the action or proceeding. In a case where, by this section, the money is to be deposited with an officer, a judge of the court, upon the application of either party, may, at any time before the deposit is made, order the money deposited in court instead of with the officer; and a deposit made pursuant to such order is of the same effect as if made with the officer. The perfecting of an appeal by giving the undertaking mentioned in this section stays proceedings in the court below upon the judgment appealed from; except when the sale of perishable

property is directed, the court below may order the property to be sold and the proceeds thereof to be deposited or invested, to abide the judgment of the appellate court.

(b) If the appellee in a civil action brought under any legal theory obtains a judgment ~~that includes an award of noncompensatory damages directing the payment or expenditure of money in the amount of~~ twenty five million dollars (\$25,000,000) or more, and the appellant seeks a stay of execution of the judgment within the period of time during which the appellant has the right to pursue appellate review, including discretionary review and certiorari, the amount of the undertaking ~~for noncompensatory damages~~ that the appellant is required to execute to stay execution of the judgment during the entire period of the appeal shall be twenty five million dollars (\$25,000,000). ~~For the purposes of this subsection, the term "noncompensatory damages" means that portion of money damages other than compensatory damages or in excess of compensatory damages. Except as expressly provided in this subsection, this subsection shall not affect or limit the amount of the undertaking otherwise required by subsection (a) of this section.~~

(c) If the appellee proves by a preponderance of the evidence that the appellant for whom the undertaking has been limited under subsection (b) of this section is, for the purpose of evading the judgment, (i) dissipating its assets, (ii) secreting its assets, or (iii) diverting its assets outside the jurisdiction of the courts of North Carolina or the federal courts of the United States other than in the ordinary course of business, then the limitation in subsection (b) of this section shall not apply and the appellant shall be required to make an undertaking in the full amount otherwise required by this section."

**SECTION 4.** This act is effective when it becomes law and applies to judgments filed or entered in this State on or after the effective date, without regard to the date on which the foreign judgment was rendered in the foreign state.

In the General Assembly read three times and ratified this the 22<sup>nd</sup> day of April, 2003.

Became law upon approval of the Governor at 2:28 p.m. on the 23<sup>rd</sup> day of April, 2003.

## S.B. 294

## Session Law 2003-20

AN ACT TO ALLOW THE CRAVEN COUNTY ALCOHOLIC BEVERAGE CONTROL BOARD TO PROVIDE ITS OWN LAW ENFORCEMENT PERSONNEL AND TO CONTRACT FOR ADDITIONAL LAW ENFORCEMENT SERVICES.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 18B-501(f) reads as rewritten:

"(f) Contracts with Other Agencies. – ~~Instead of of, or in addition to,~~ hiring local ABC officers, a local board may contract ~~to pay its enforcement funds to with~~ a sheriff's department, city police department, or other local law-enforcement agency for enforcement of the ABC laws within the law-enforcement agency's territorial jurisdiction. Enforcement agreements may be made with more than one agency at the same time. When ~~such~~ a contract for enforcement exists, ~~the~~ those officers of the contracting law-enforcement agency designated in the contract shall have the same authority to inspect under G.S. 18B-502 that an ABC officer employed by that local board would ~~have~~ have once the designated officers of the contracting law enforcement agency have been certified by the chief ABC officer as having been trained. In order to

be certified, the designated officers shall receive the same training in the enforcement of ABC laws as is provided to local ABC officers. If a city located in two or more counties approves the sale of some type of alcoholic beverage pursuant to the provisions of G.S. 18B-600(e4), and there are no local ABC boards established in the city and one of the counties in which the city is located, the local ABC board of any county in which the city is located may enter into an enforcement agreement with the city's police department for enforcement of the ABC laws within the entire city, including that portion of the city located in the county of the ABC board entering into the enforcement agreement. The local ABC board, upon 20 days' written notice, may cancel enforcement agreements authorized by this subsection.

Payments, if any, received by a contracting agency for furnishing law enforcement services shall be in addition to any profits allocated to local governments derived from the sale of alcoholic beverages."

**SECTION 2.** This act applies to the Craven County Alcoholic Beverage Control Board only.

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

In the General Assembly read three times and ratified this the 23<sup>rd</sup> day of April, 2003.

Became law on the date it was ratified.

## H.B. 581

## Session Law 2003-21

AN ACT TO ALLOW ELECTROFISHING FOR CATFISH IN COLUMBUS COUNTY.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Notwithstanding any other provision of law, a person who holds a current and valid special device license, as defined in G.S. 113-272.2, may use a hand-operated device which generates an electric current for taking catfish.

**SECTION 2.** This act applies only to those portions of the Waccamaw River located in Columbus County and to those portions of the Lumber River located in Columbus County.

**SECTION 3.** This act becomes effective July 1, 2003.

In the General Assembly read three times and ratified this the 23<sup>rd</sup> day of April, 2003.

Became law on the date it was ratified.

## S.B. 30

## Session Law 2003-22

AN ACT AMENDING THE CHARTER OF THE TOWN OF DALLAS TO AUTHORIZE THE BOARD OF ALDERMEN TO DELEGATE THE AUTHORITY TO SUSPEND OR REMOVE EMPLOYEES.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Section 4.1 of Article IV of the Charter of the Town of Dallas, being Chapter 342 of the 1979 Session Laws, reads as rewritten:

"Section 4.1. Form of government; authority over employees. The Town shall operate under the mayor-council form of government, in accordance with Part 3 of Article 7 of Chapter 160A of the General Statutes. The Board of Aldermen shall have

the authority to appoint and remove all employees. The Board may delegate to a department head the authority to suspend ~~an employee, but final action on any suspension shall be taken by the Board~~ or remove employees in his or her department."

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

In the General Assembly read three times and ratified this the 24<sup>th</sup> day of April, 2003.

Became law on the date it was ratified.

**S.B. 465**

**Session Law 2003-23**

AN ACT TO ALLOW THE CITIES OF GOLDSBORO AND HIGH POINT TO DECLARE RESIDENTIAL BUILDINGS IN COMMUNITY DEVELOPMENT TARGET AREAS UNSAFE AND HAVE THE OPTION OF DEMOLISHING THOSE BUILDINGS PURSUANT TO G.S. 160A-432.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Section 4 of S.L. 2002-118 reads as rewritten:

"**SECTION 4.** Sections 1 and 2 of this act apply to the Cities of ~~Durham and Fayetteville~~ Durham, Fayetteville, Goldsboro, and High Point and the Towns of Hope Mills and Spring Lake only."

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

In the General Assembly read three times and ratified this the 24<sup>th</sup> day of April, 2003.

Became law on the date it was ratified.

**S.B. 338**

**Session Law 2003-24**

AN ACT TO REMOVE THE SUNSET ON THE LAW PROVIDING THAT CERTAIN SECONDARY SUPPLIERS OF ELECTRIC SERVICE MAY FURNISH SERVICE WITHIN THE CORPORATE LIMITS OF A CITY WITH WRITTEN CONSENT FROM THE CITY, ALLOWING THE MEMBERS OF AN ELECTRIC MEMBERSHIP CORPORATION TO VOTE BY PROXY ON DECISIONS TO ENCUMBER CORPORATE PROPERTY OR TO DISSOLVE THE CORPORATION, AND MAKING TECHNICAL CHANGES TO THE LAW REGARDING MUNICIPAL ELECTRIC SERVICE.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Section 6 of Chapter 346 of the 1997 Session Laws, as amended by S.L. 1999-111, reads as rewritten:

"**Section 6.** This act is effective when it becomes law and applies only to annexations or incorporations that occur on or after the effective date. ~~This act expires on December 31, 2003.~~"

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

In the General Assembly read three times and ratified this the 14<sup>th</sup> day of April, 2003.

Became law upon approval of the Governor at 4:20 p.m. on the 24<sup>th</sup> day of April, 2003.

**H.B. 320****Session Law 2003-25**

AN ACT TO UPDATE THE REFERENCE TO THE INTERNAL REVENUE CODE USED IN DEFINING AND DETERMINING CERTAIN STATE TAX PROVISIONS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 105-228.90(b)(1b) reads as rewritten:

"(b) Definitions. – The following definitions apply in this Article:

...

(1b) Code. – The Internal Revenue Code as enacted as of ~~May 1, 2002~~, January 1, 2003, including any provisions enacted as of that date which become effective either before or after that date."

**SECTION 2.** Notwithstanding Section 1 of this bill, any amendments to the Internal Revenue Code enacted in 2002 that increase North Carolina taxable income for the 2002 taxable year become effective for taxable years beginning on or after January 1, 2003.

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

In the General Assembly read three times and ratified this the 16<sup>th</sup> day of April, 2003.

Became law upon approval of the Governor at 4:22 p.m. on the 24<sup>th</sup> day of April, 2003.

**S.B. 482****Session Law 2003-26**

AN ACT TO AUTHORIZE THE CITY OF DURHAM TO ANNEX ROADS THAT ARE ADJACENT ON BOTH SIDES TO PROPERTY ALREADY WITHIN THE CITY LIMITS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** The Charter of the City of Durham, being Chapter 671 of the 1975 Session Laws, as amended, is further amended by adding a new section to read:

**"Sec. 2.5A. Annexation of Streets Adjacent to City Limits.**

In addition to its authority to annex streets under this Charter and under general law, the City may annex the portions of public or private streets that are directly contiguous on two opposing sides to property that is within the City limits. When the City proposes to annex a street under this authority and the annexation is of the street alone, and no other property, the City may accomplish the annexation using the procedure described in this section. The City Council shall pass a resolution describing the street area to be annexed, and setting a date for a public hearing. Notice and a public hearing as required under Parts 1 and 4 of Article 4A of Chapter 160A of the General Statutes shall be provided. Upon compliance with these requirements, the City Council may pass an ordinance annexing the described area, and no other requirements shall apply. The time period for appeal of the annexation shall be as provided in Section 2.6 of this Charter."

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

In the General Assembly read three times and ratified this the 28<sup>th</sup> day of April, 2003.

Became law on the date it was ratified.



**H.B. 645****Session Law 2003-27**

AN ACT PROVIDING THAT NO GOVERNMENT ENTITY OUTSIDE OF CURRITUCK COUNTY MAY ANNEX ANY PORTION OF CURRITUCK COUNTY, OR EXTEND ITS EXTRATERRITORIAL JURISDICTION INTO CURRITUCK COUNTY.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Notwithstanding any other provision of law, no government entity outside of Currituck County may annex any territory within Currituck County or extend its extraterritorial jurisdiction into Currituck County.

**SECTION 2.** This act applies to Currituck County only.

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

In the General Assembly read three times and ratified this the 28<sup>th</sup> day of April, 2003.

Became law on the date it was ratified.

**S.B. 733****Session Law 2003-28**

AN ACT TO PROVIDE FOR EXTENSIONS OF THE EXPIRATION DATES OF CERTAIN GENERAL NONDISCHARGE PERMITS FOR ANIMAL WASTE MANAGEMENT SYSTEMS THAT SERVE SWINE, CATTLE, AND POULTRY OPERATIONS AND TO DIRECT THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO STUDY THE USE OF GENERAL NONDISCHARGE PERMITS FOR ANIMAL WASTE MANAGEMENT SYSTEMS THAT SERVE SWINE, CATTLE, AND POULTRY OPERATIONS TO PROTECT WATER QUALITY.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Notwithstanding 15A NCAC 2H.0225(e), the Department of Environment and Natural Resources, pursuant to the powers relative to general permits and to permits for facilities not discharging to the surface waters of the State that are granted to the Environmental Management Commission under G.S. 143-215.1 and G.S. 143-215.10C and delegated by the Commission to the Department, shall extend the expiration of general permits AWG100000 (Swine), AWG200000 (Cattle), and AWG300000 (Poultry) until 1 October 2004. Subject to the provisions of 40 Code of Federal Regulations Part 123 (1 July 2002 Edition) and of subsections (g) and (h) of 15 NCAC 2H.0225, the Department of Environment and Natural Resources shall extend the expiration of individual certificates of coverage issued under these general permits until 1 October 2004.

**SECTION 2.** The Department of Environment and Natural Resources shall study the use of general nondischarge permits for animal waste management systems for swine, cattle, and poultry operations to protect water quality, including the impact of the use of general permits for swine, cattle, and poultry operations on the land application and potential discharge of nitrogen and phosphorous to surface water and groundwater in the State. In conducting this study, the Department shall consult with the Department of Agriculture and Consumer Services; the College of Agriculture and Life Sciences at North Carolina State University; representatives of swine, cattle, and poultry farmers; representatives of environmental protection and natural resources

conservation groups; and other interested parties. In the course of the study required by this section, the Department of Environment and Natural Resources shall prepare draft revised general permits for animal waste management systems that serve swine, cattle, and poultry operations and shall circulate these draft permits, along with drafts of the forms that farmers would be required to use in connection with these permits, among interested parties for comment. Consistent with water quality protection goals and strategies, the Department of Environment and Natural Resources may further revise the draft revised general permits and associated forms on the basis of comment from interested parties. The Department of Environment and Natural Resources shall report its findings and recommendations to the Environmental Review Commission on or before 1 March 2004.

**SECTION 3.** This act becomes effective 30 April 2003.

In the General Assembly read three times and ratified this the 28<sup>th</sup> day of April, 2003.

Became law upon approval of the Governor at 10:18 a.m. on the 30<sup>th</sup> day of April, 2003.

**S.B. 244**

**Session Law 2003-29**

AN ACT AUTHORIZING THE NORTH CAROLINA BOARD OF NURSING TO RECOGNIZE RETIRED NURSES BY SPECIAL LICENSURE STATUS AND TO ESTABLISH A FEE FOR THIS STATUS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Article 9A of Chapter 90 of the General Statutes is amended by adding a new section to read:

**"§ 90-171.36A. Retired nurse status; reinstatement.**

(a) After a registered nurse or a licensed practical nurse has retired, upon payment of the one-time fee required by G.S. 90-171.27(b), the Board may issue a special license to a registered nurse or licensed practical nurse in recognition of the nurse's retired status.

(b) If a retired registered nurse or licensed practical nurse wishes to return to the practice of nursing, the retired nurse shall apply for reinstatement on a form provided by the Board and satisfy any requirements the Board deems necessary to reinstate the license."

**SECTION 2.** G.S. 90-171.27(b) reads as rewritten:

"(b) The schedule of fees shall not exceed the following rates:

Application for examination leading to certificate and license as registered nurse .....	\$75.00
Application for certificate and license as registered nurse by endorsement.....	150.00
Application for each re-examination leading to certificate and license as registered nurse .....	75.00
Renewal of license to practice as registered nurse(two-year period) .....	100.00
Reinstatement of lapsed license to practice as a registered nurse and renewal fee .....	180.00
Application for examination leading to certificate and license as licensed practical nurse by examination.....	75.00

Application for certificate and license as licensed practical nurse by endorsement.....	150.00
Application for each re-examination leading to certificate and license as licensed practical nurse .....	75.00
Renewal of license to practice as a licensed practical nurse (two-year period) .....	100.00
Reinstatement of lapsed license to practice as a licensed practical nurse and renewal fee .....	180.00
<u>Application fee for retired registered nurse status or retired licensed practical nurse status .....</u>	<u>50.00</u>
<u>Reinstatement of retired registered nurse to practice as a registered nurse or a retired licensed practical nurse to practice as a licensed practical nurse (two-year period)...</u>	<u>100.00</u>
Reasonable charge for duplication services and materials.	

A fee for an item listed in this schedule shall not increase from one year to the next by more than twenty percent (20%)."

**SECTION 3.** The Board shall initially charge a twenty-five dollar (\$25.00) application fee for retired registered nurse status or retired licensed practical nurse status. Nothing in this section shall prohibit the Board from amending the fee pursuant to Chapter 150B of the General Statutes.

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

In the General Assembly read three times and ratified this the 24<sup>th</sup> day of April, 2003.

Became law upon approval of the Governor at 10:20 a.m. on the 30<sup>th</sup> day of April, 2003.

**S.B. 122**

**Session Law 2003-30**

**AN ACT CONCERNING VOLUNTARY SATELLITE ANNEXATION BY THE CITIES OF GASTONIA AND LOCUST AND THE TOWNS OF BLADENBORO, PINE LEVEL, AND RANLO.**

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 160A-58.1(b) reads as rewritten:

"(b) A noncontiguous area proposed for annexation must meet all of the following standards:

- (1) The nearest point on the proposed satellite corporate limits must be not more than three miles from the primary corporate limits of the annexing city.
- (2) No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city, except as set forth in subsection (b2) of this section.
- (3) The area must be so situated that the annexing city will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.
- (4) If the area proposed for annexation, or any portion thereof, is a subdivision as defined in G.S. 160A-376, all of the subdivision must be included.

- (5) The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed ten percent (10%) of the area within the primary corporate limits of the annexing city.

Subdivision (5) of this subsection does not apply to the Cities of Claremont, Concord, Conover, Gastonia, Locust, Newton, Sanford, Salisbury, and Southport, and the Towns of Bladenboro, Catawba, Maiden, Midland, Pine Level, Ranlo, Swansboro, and Warsaw."

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

In the General Assembly read three times and ratified this the 1<sup>st</sup> day of May, 2003.

Became law on the date it was ratified.

AN ACT TO CLARIFY THE LAW GOVERNING PLUMBING, HEATING, AND FIRE SPRINKLER CONTRACTORS THAT ALLOWS RETAILERS WHO ARE NOT LICENSED AS PLUMBING, HEATING, OR FIRE SPRINKLER CONTRACTORS TO SELL CERTAIN GOODS AND SERVICES TO BE INSTALLED BY LICENSEES.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 87-21(c) reads as rewritten:

"(c) To Whom Article Applies. – The provisions of this Article shall apply to all persons, firms, or corporations who engage in, or attempt to engage in, the business of plumbing, heating, or fire sprinkler contracting, or any combination thereof as defined in this Article. The provisions of this Article shall not apply to those who make minor repairs or minor replacements to an already installed system of ~~plumbing or heating~~ plumbing, heating or air conditioning, but shall apply to those who make repairs, replacements, or modifications to an already installed fire sprinkler system. Minor repairs or minor replacements within the meaning of this subsection shall include the replacement of parts in an installed system which do not require any change in energy source, fuel type, or routing or sizing of venting or piping. Parts shall include a compressor, coil, contactor, motor, or capacitor."

**SECTION 2.** G.S. 87-21(i), as enacted in Section 36(a) of S.L. 2002-159, reads as rewritten:

"(i) The provisions of this Article shall not apply to a retailer, as defined in G.S. 105-164.3(35), who, in the ordinary course of business, enters into a transaction with a buyer in which the retailer of a ~~good and the services necessary for the installation of the good~~ water heater sold for installation in a one- or two-family residential dwelling contracts with a licensee under this Article to provide the installation services ~~if the contract, containing the licensee's license number, for the water heater if the retail sales and installation contract with the buyer is signed by the buyer, the retailer, and the licensee~~ licensee and bears the licensee's license number and telephone number. All installation services rendered pursuant to this section by the licensee in connection with any such contract must be performed in compliance with all local building code, permit permit, and inspection requirements."

**SECTION 3.** G.S. 87-21 is amended by adding the following new subsections:

"(j) The provisions of this Article shall not apply to a person primarily engaged in the retail sale of goods and services who contracts for or arranges financing for the sale and installation of a single-family residential heating or cooling system for which a license to install such system is required under this Article, provided all of the following requirements are met:

- (1) No contract or proposal for sale or installation may be presented to or signed by the buyer unless either (i) the specifications for and design of the system have been first reviewed and approved by an employee of the retail seller who is licensed under this Article or (ii) the specifications for and design of the system have been first reviewed and approved by the person licensed under this Article who will install the system, if the installer is not an employee of the retail seller. This subdivision does not prohibit the retailer from providing a written estimate to a potential buyer so long as no contract or proposal for contract is presented or signed prior to the review and approval required by this subsection.
- (2) The person installing the system is licensed under this Article.
- (3) The contract for sale and for installation is signed by the buyer, by an authorized representative of the retail seller, and by the licensed contractor and contains the contractor's name, license number, and telephone number and the license number of the person approving the system design specifications.
- (4) Installation services are performed in compliance with all applicable building codes, manufacturer's installation instructions, and permit and inspection requirements.
- (5) The retailer provides, in addition to any other warranties it may offer with respect to the system itself, a warranty for a period of at least one year for any defects in installation.

(k) The provisions of subsections (i) and (j) of this section shall not apply to a system meeting the definition of subdivision (a)(11) of this section."

**SECTION 3.** Section 36(b) of S.L. 2002-159, as amended by Section 1 of S.L. 2003-2, reads as rewritten:

"**SECTION 36.(b)** This section becomes effective ~~May 1, 2003~~ July 1, 2003."

**SECTION 4.** This act becomes effective July 1, 2003.

In the General Assembly read three times and ratified this the 1st day of May, 2003.

Became law upon approval of the Governor at 4:01 p.m. on the 1<sup>st</sup> day of May, 2003.

**S.B. 355**

**Session Law 2003-32**

AN ACT TO ALLOW THE TOWN OF WAKE FOREST TO USE TOWN LABOR FOR PHASED CONSTRUCTION OF ELECTRICAL DISTRIBUTION FEEDER CIRCUITS AND FOR CONSTRUCTION OF AN ELECTRIC SUBSTATION WITHOUT REGARD TO THE DOLLAR VALUE OF THE LABOR.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** The Town of Wake Forest may use qualified labor on the permanent payroll of the Town for the following projects without regard to the dollar limitations contained in G.S. 143-135:

- (1) Electrical distribution feeder circuits, to be built in phases.
- (2) Electrical Substation.

**SECTION 2.** The project listed in subdivision (1) of Section 1 of this act is only covered by Section 1 of this act if construction on the first phase begins no later than December 31, 2003. The final phase must commence construction no later than December 31, 2009, in order to be covered by Section 1 of this act.

**SECTION 3.** The project listed in subdivision (2) of Section 1 of this act is only covered by Section 1 of this act if construction on the first phase begins no later than December 31, 2006.

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

In the General Assembly read three times and ratified this the 5<sup>th</sup> day of May, 2003.

Became law on the date it was ratified.

## H.B. 703

## Session Law 2003-33

AN ACT TO AMEND THE CHARTER OF THE CITY OF GREENSBORO AND THE GENERAL STATUTES TO INCREASE THE MEMBERSHIP OF THE CITY OF GREENSBORO BOARD OF ALCOHOLIC CONTROL FROM THREE TO FIVE MEMBERS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Section 5.21 of the Charter of the City of Greensboro, as revised and reorganized by Chapter 1137 of the Session Laws of 1959, reads as rewritten:

"Sec. 5.21. Board of Alcoholic Control: Selection, Composition and Terms.

The City of Greensboro Board of Alcoholic Control is hereby continued under this charter, and shall consist of ~~three~~ five members who shall be known for their character, ability, and business acumen. The city council shall appoint the members of said board for three-year overlapping terms; shall fix their compensation; and shall designate one of the members as chairman. Vacancies occurring otherwise than by expiration of term shall be filled by the council for the unexpired term."

**SECTION 2.** G.S. 18B-700(a) reads as rewritten:

"(a) Membership. – ~~A local ABC board shall consist of three five members appointed for three year terms, unless a different membership or term is provided by a local act enacted before the effective date of this Chapter, or terms unless the board is a board for a merged ABC system under G.S. 18B-703 and a different size membership has been provided for as part of the negotiated merger. One member of the initial board of a newly created ABC system shall be appointed for a three year term, one member for a two year term, and one member for a one year term.~~ The City of Greensboro's Alcoholic Beverage Control Board shall consist of five members appointed for three-year terms. The three members appointed prior to the effective date of this act shall complete their terms as appointed. The two new members appointed after the effective date of this act shall be appointed as provided in Section 3 of this act. As the terms of initial board members expire, their successors shall each be appointed for

three-year terms. The appointing authority shall designate one member of the local board as chairman."

**SECTION 3.** The city council shall appoint additional members authorized by this act to serve one-year or two-year initial terms and then for three-year terms thereafter. The initial terms shall be decided upon to maintain the staggered appointment periods required by the city charter.

**SECTION 4.** Section 2 of this act applies to the City of Greensboro only.

**SECTION 5.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 5<sup>th</sup> day of May, 2003.

Became law on the date it was ratified.

**S.B. 162**

**Session Law 2003-34**

**AN ACT TO REPEAL THE FAYETTEVILLE FIREMEN'S SUPPLEMENTAL RETIREMENT BENEFIT FUND.**

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Chapter 351 of the 1969 Session Laws is repealed.

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

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

In the General Assembly read three times and ratified this the 13<sup>th</sup> day of May, 2003.

Became law on the date it was ratified.

**S.B. 276**

**Session Law 2003-35**

**AN ACT TO AMEND THE PROVISIONS OF THE WINSTON-SALEM FIREMEN'S RETIREMENT FUND.**

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Sections 1 through 32 of Chapter 388 of the 1973 Session Laws, as amended by Chapter 15 of the 1977 Session Laws, Chapter 284 of the 1979 Session Laws, Chapter 647 of the 1981 Session Laws, Chapter 464 of the 1983 Session Laws, Chapter 508 of the 1987 Session Laws, Chapter 793 of the 1989 Session Laws, and S.L. 1998-92, read as rewritten:

"**Sec. 1.** That the name of the Association herein established shall be Winston-Salem Firemen's Retirement Fund Association, hereinafter referred to as the Association. References to the Association as of a date prior to April 3, 1979, and following July 1, 1973, shall mean the Winston-Salem Fire-Public Safety Retirement Fund Association, which was the name of the Association during such period.

**Sec. 2.** Subject to the provisions of Section 16 hereof, the following persons shall automatically be members of the Association:

(a) As of July 1, 1987, any person who was a member of the Association following the close of business of the Association immediately preceding such date.

(b) As of July 1, 1987, and thereafter, any person not covered under (a) above who shall have been regularly and continuously employed full time by the Fire Department of the City of Winston-Salem (hereinafter referred to as the Fire Department), including any Fire Department mechanic or electrician, who shall have attained his 18th birthday and shall not have attained his 40th birthday. Any person not covered under (a) above who was hired by the Fire Department prior to July 1, 1987, and continues to be employed by the Fire Department on such date, and who had attained his 30th birthday when hired but had not then attained his 40th birthday, may elect within 90 days following July 1, 1987, to become a member by contributing to the Association the sum of twelve dollars (\$12.00) per month from his date of hire by the Fire Department, plus interest at the rate of eight percent (8%), applicable to any payments made on and after July 1, 1989, per annum, computed on the amount accrued as of the end of each fiscal year of the Association.

(c) Notwithstanding the provisions of subsection (b) immediately preceding, as a condition to any person's becoming a member of the Association pursuant to the provisions of subsection 2(b) or 16(a), the Trustees may require such person to undergo a physical examination by a physician or physicians of good standing or repute selected by the Trustees. If it shall be found from such physician's report that such person is not in good physical or mental condition as of the date he would be eligible to become a member of the Association, such person shall be denied membership in the Association. The determinations of whether or not such person shall be required to undergo a physical examination and whether or not he is in good physical or mental condition shall be made by the Trustees. In making such determinations, all persons similarly situated shall be treated alike. The cost of any medical examination required pursuant to the provisions of this subsection (c) shall be borne by the person seeking membership in the Association.

**Sec. 3.** The Association may provide and raise funds in any legal manner to be used as a pension fund for such person or persons as may be entitled thereto under the provisions of this act and to such extent as is hereinafter set out.

**Sec. 4.** The governing body of the Association shall consist of a Board of Trustees five in number, four from the membership of the Fire Department, and one to be appointed by the Insurance Commissioner of the State of North Carolina.

**Sec. 5.** The Trustees from the membership of the Fire Department shall be elected by the members of the Fire Department for four-year terms. Such terms shall be staggered, so that two of the Trustees shall be elected during the month of January of each year divisible evenly by two. Trustees that are slated to leave the Board are automatically candidates for reelection unless they choose not to serve another term. In addition, the elected Association Trustees shall select from the members of the Fire Department four members in good standing, each of whom continuously served in the Fire Department for a period of at least four years. A general election shall then be held by the membership of the Fire Department to elect from the list of candidates two Trustees to serve a four-year term. Each member of the Fire Department in good standing may cast two votes for the member's choice of nominees. The nominee receiving the highest number of votes in the election will be a member of the Winston-Salem Firemen's Relief Fund Board as well as the Association Board. In the event that a Trustee is unable to complete the Trustee's term, the nominee receiving the next highest number of votes in the last election held and who is not then serving as a Trustee shall complete the unexpired term of the Trustee who resigned from the Board. A tie shall be resolved by casting lots.



**Sec. 6.** Any Trustee may resign at any time by giving notice in writing to the other Trustees. Should any Trustee who is a member of the Fire Department cease to be a member of the Fire Department for any reason, he shall automatically cease to be a Trustee. With regard to any Trustee elected by the members of the Association who resigns or ceases to be a Trustee for any reason, his successor shall be elected as provided in Section 5 of this act. Should the Trustee who was appointed by the Insurance Commissioner of the State of North Carolina resign or cease to be a Trustee for any reason, his successor shall be appointed by the said Insurance Commissioner.

**Sec. 7.** The Board of Trustees is herein fully vested with the exclusive right and authority to pay out the funds of this Association, as provided for in this act. All matters and claims provided for under this act shall be passed upon by said Trustees and all decisions and actions of said Trustees shall be binding upon the Association and the members thereof. Every Trustee shall be entitled to one vote except the chairman of the Board of Trustees, who shall be entitled to vote only to break a tie. At every annual meeting of the Board of Trustees, the Trustees shall elect a chairman, vice-chairman, secretary and treasurer. The secretary and treasurer need not be Trustees, and the offices of secretary and treasurer may be combined into a single office, in the discretion of the Trustees. The annual meeting of the Board of Trustees shall be held as soon as is practicable following the end of each calendar year at such place and at such time as shall be determined by the Trustees.

**Sec. 8.** ~~The~~ As of September 1, 2001, the secretary of the Association (or the secretary-treasurer if such offices shall be combined into a single office) shall be entitled to receive monthly compensation in an amount ~~not to exceed the amount of the monthly normal retirement benefit payable for the month for which compensation is payable, determined pursuant to Section 19 of this act.~~ to be determined each year by the Trustees. The Trustees, as such, including the chairman and the vice-chairman, shall serve without compensation. The Trustees may authorize reimbursement by the Association to any officer or Trustee of the Association for all expenses incurred by such person in connection with services rendered in behalf of the Association.

**Sec. 9.** The Trustees shall elect a custodian of all funds and property of the Association, provided that such custodian shall have first offered proof satisfactory to the Trustees, by bond or otherwise, that it is and will be financially responsible for all property coming into its hands in a fiduciary capacity. Said custodian shall not release any of the funds or property of the Association for reasons other than investment of such funds or property except upon the written authorization of the Trustees.

The Trustees shall also elect an investment manager who may or may not be the same person as the custodian. Any such investment manager shall be a bank, or an insurance company, or an entity registered under the Investment Advisor's Act of 1940. The investment manager shall be authorized to invest and reinvest the funds or property of the Association in the investment manager's own judgment and discretion. The investment manager shall report to the Trustees on a periodic basis, but not less frequently than each calendar quarter. The investment manager (including said custodian when acting as investment manager) shall not be liable to the Association for any act of failure to act by it, except for gross negligence or willful misconduct.

**Sec. 10.** A special meeting of the Board of Trustees may be called by the chairman or vice-chairman, or by any two Trustees, upon 24 hours' written notice delivered in person to the members of said Board or mailed to the last known address of each member of said Board. A majority of the Trustees in office shall constitute a quorum at

any meeting and a majority vote of the Trustees at a meeting at which a quorum is present shall constitute action by the Trustees.

**Sec. 11.** The chairman of the Board of Trustees, when present, shall preside at all meetings. In the absence of the chairman, the vice-chairman shall act as chairman.

**Sec. 12.** The secretary shall keep in complete form such data as shall be necessary for actuarial valuation of the funds of the Association and for checking the disbursements for and on behalf of the Association. He shall keep minutes of all proceedings of the Board of Trustees and of the Association, and the same shall be kept in a place selected by the Trustees. The treasurer of the Association shall post yearly at each fire station and at the office of fire administration, as soon as practicable following the end of each year, a financial statement of the Association.

**Sec. 13.** The treasurer of the Association shall deposit with the custodian all funds and property that may come into his hands for the Association. The said treasurer shall obtain a receipt from the custodian for all funds and property delivered to the custodian by the treasurer. Said custodian shall invest and reinvest such funds and property as directed by the investment manager appointed under Section 9. Notwithstanding any contrary provisions of Section 9 or of this section, the Trustees are specifically authorized and empowered to invest funds of the Association by depositing such funds with the Winston-Salem Firemen's Credit Union on condition that the Association shall receive interest at an annual rate agreed upon by the Association and such credit union.

**Sec. 14.** The custodian and the investment manager shall receive compensation for services rendered as may be agreed upon from time to time in writing by the Trustees and by the custodian (with respect to services rendered by the custodian) or the investment manager (with respect to services rendered by the investment manager). The Trustees shall have the authority to employ legal counsel when, in the opinion of the Trustees, legal counsel is necessary. In case of such employment, said counsel shall be paid such fees as may be fair and reasonable as agreed upon in writing by the Trustees and the counsel so employed.

**Sec. 15.** On or before August 31, 1987, the Board of Trustees of the Winston-Salem Firemen's Relief Fund shall transfer to the Board of Trustees of the Winston-Salem Firemen's Retirement Fund Association out of properties and funds belonging to the Winston-Salem Firemen's Relief Fund the sum of fifty-four thousand dollars (\$54,000) in cash or assets. The assets so transferred pursuant to the immediately preceding sentence shall be transferred upon the basis of the fair market value thereof as of the date of transfer, and the particular assets to be transferred shall be determined by joint action of the Board of Trustees of the Winston-Salem Firemen's Relief Fund and the Board of Trustees of the Winston-Salem Firemen's Retirement Fund Association. All property of the Association is hereby relieved from any and all claims of the persons entitled to relief from the Winston-Salem Firemen's Relief Fund. The North Carolina Firemen's Association, its officers, members, boards and committees, are also hereby relieved of any claim of any kind whatsoever which may be based on past service, present service or future service in the Winston-Salem Fire Department. The Winston-Salem Firemen's Relief Fund and the officers, members, boards and committees of said Fund, are also hereby relieved of any claim of any kind whatsoever which may be based on past, present or future service in the Winston-Salem Fire Department, if any, so long as any claimant is entitled to benefits or pension under the provisions of this act.

**Sec. 16.** (a) Notwithstanding the provisions of subsection (b) immediately following, if a person who shall not be a member of the Association shall be transferred

to the employment of the Fire Department from the employment of the City of Winston-Salem (hereinafter referred to as the City), the following provisions shall apply in determining whether he shall be a member of the Association following such transfer:

- (1) If he shall have attained at least his 18th birthday and shall not have attained his 40th birthday on the date of such transfer, he shall automatically become a member on such date of transfer. In determining such transferred employee's number of years of continuous employment by the City, employment with the City prior to such transfer shall be taken into account only if such employee shall elect to contribute to the Association the sum of (i) plus (ii) plus (iii), where (i) is the amount of twelve dollars (\$12.00) per month, measured from the date of his hire by the City until earlier of the date of such transfer and June 30, 1998; (ii) is the aggregate amount that the person would have contributed, determined in accordance with Section 17 of this act, measured from July 1, 1998, until the date of the transfer, if the transfer occurs on or after July 1, 1998; and (iii) is interest accrued at the rate of eight percent (8%) with respect to any payments made on and after July 1, 1989, per annum, compounded annually on the amount accrued as of the end of each fiscal year of the Association.
- (2) If he shall have attained at least his 40th birthday on the date of transfer, but had not attained such birthday when last employed by the City, he may elect within 90 days following such transfer to become a member. If he elects to become a member, he shall contribute to the Association the amount he would have contributed if he had become a member on the day next preceding his 40th birthday. In addition, at the option of such employee, he may further elect to contribute such additional amount as he would have contributed prior to his 40th birthday if his employment with the City had been with the Fire Department. Any such contributions shall include interest at the rate of eight percent (8%), applicable to any payments made on and after July 1, 1989, per annum, computed on the amount accrued as of the end of each fiscal year of the Association.
- (3) If he shall have attained at least his 40th birthday when last employed by the City, he shall be ineligible to become a member following such transfer.
- (4) The elections specified in subdivisions (1) and (2) hereof shall be made in writing to the Trustees within 90 days following such transfer, and shall be irrevocable when made (subject to termination of membership upon subsequent separation from employment with the Fire Department). Any contributions (and interest) payable pursuant to such election shall be paid in cash in a lump sum at the time such election shall be filed.

(b) Notwithstanding the provisions of subsection (a) of Section 2 hereof, as soon as practicable following April 3, 1979, (but in no event more than 60 days thereafter), the Trustees gave each person who was then employed by the City of Winston-Salem as a Public Safety Officer an election to be a member or not to be a member of the Association. Each such election was to be made in accordance with procedures established by the Trustees and was irrevocable when made (subject to termination of

membership upon a subsequent separation from the employment of the City, and subject to the provisions of subsection (a) of this Section 16). If a Public Safety Officer failed to file a timely election, he was deemed to have elected not to be a member. If a Public Safety Officer who was a member on the date of the election elected to discontinue membership (or shall have been deemed to have so elected), within 30 days following such date there should have been refunded to him the full amount of his prior contributions to the Association, if any, without interest. If a Public Safety Officer who failed to make contributions prior to the election date elected to be a member, he shall have within 30 days following such election paid to the Association the full amount he would have contributed if he had made required contributions during the entire period that he was eligible to be a member. Such contributions included interest at the rate of six percent (6%) per annum, computed on the amount accrued as of the end of each fiscal year of the Association.

(c) Any member whose employment by the Fire Department as a Public Safety Officer shall be terminated on or after June 27, 1981, for any reason, including transfer to another department in the employment of the City, shall be terminated immediately as a member; provided, that any member who is transferred on or after July 1, 1981, to another department of the City in a fire-related job shall not become a terminated member if the following conditions are met: (i) within 15 days following the date of such transfer he shall file with the Trustees a written election to continue as a member; and (ii) such member shall be notified in writing by the secretary of the Association on or before the date of transfer of his right to make the election. If a terminated member shall reenter employment of the Fire Department, his eligibility to become a member shall be determined at that time in accordance with Section 2 hereof, except to the extent such individual may be entitled to elect to become a member upon a transfer of employment as provided in subsection (a) of this Section 16.

(d) In determining the number of years of continuous employment of a member, there shall be taken into account all years for which he shall make contributions in accordance with subsection (a) or (e) of this Section 16 or Section 19. For purposes of computing a member's years of continuous employment with the City, any period of unused sick leave with the Fire Department accrued by the member on the date of his retirement shall be deemed to be a period of continuous employment with the Fire Department.

(e) If any member of the Association was employed by the Fire Department as a cadet, such member's number of years of employment as a cadet may be added to the period of his continuous employment with the City if, by July 31, 1981, such member contributed to the Association an amount equal to twelve dollars (\$12.00) per month for the time he was a cadet, plus interest at the rate of six percent (6%) per annum, computed on the amount accrued as of the end of each fiscal year of the Association.

(f) If a member has been employed by the City continuously for a period of 10 years and has any military service, and is not otherwise treated under Section 26 as being in the employment of the City during the period of such military service, the period of such military service shall nevertheless be added to his period of continuous employment with the City upon such member's paying to the Association an amount equal to twelve dollars (\$12.00) for each month of such military service plus interest at the rate of eight percent (8%), applicable to any payments made on and after July 1, 1989, per annum, compounded annually. Such military service shall be limited to the initial period of active duty in the armed forces of the United States up to the time the member was first eligible to be separated or released therefrom, and subsequent

periods of such active duty as required by the armed forces of the United States up to the date of first eligibility for separation or release therefrom. The member must submit evidence satisfactory to the Trustees of the military service claimed. Such election must be made within one year after the member first becomes eligible to contribute for such military service. Credit for military service under this subsection shall not be considered service creditable under another retirement system for purposes of G.S. 128-26(a).

(g) If an individual who is an active participant in the North Carolina Local Governmental Employees' Retirement System (the 'System') shall terminate service with the employer enabling the individual to participate in the System (the 'System Employer'), and shall immediately enter the employment of the Fire Department, he may elect to have his period of service under the System considered as continuous employment with the Fire Department for purposes of this act; provided, that such election shall be permitted only if the individual was under age 40 when he entered the employment of the System Employer. This election shall be made in writing to the Trustees within 90 days of the individual's commencement of employment with the Fire Department (or, with respect to an individual who becomes employed by the Fire Department prior to July 1, 1989, this election shall be made on or before September 30, 1989). The election, if made, shall be accompanied by a cash contribution to the Association equal to the sum of (i) plus (ii) plus (iii), where (i) is the amount of twelve dollars (\$12.00) per month measured from the date of the person's hiring by the City until the earlier of the transfer and June 30, 1998; (ii) is the aggregate amount that the person would have contributed, determined in accordance with Section 17 of this act, measured from July 1, 1998, until the date of the transfer, if the transfer occurs on or after July 1, 1998; and (iii) is interest accrued at the rate of eight percent (8%) per annum, compounded annually on the amount accrued as of the end of each fiscal year of the Association. The election shall be irrevocable when made. If the election is not made in a timely fashion, the right to make the election is forfeited.

**Sec. 17.** The Treasurer of the City shall make a deduction from the salary of each member of the Association due him by the City. ~~The As of September 1, 2001,~~ the amount of each such deduction shall be determined as of the first day of each ~~fiscal year~~ payroll period of the City, and shall be equal to the quotient (rounded up to the next whole dollar amount) obtained by dividing (i) the product, rounded to the nearest dollar, of .007 multiplied by the annual starting salary of a firefighter employed by the Fire Department in effect at the beginning of that ~~fiscal year; payroll period;~~ by (ii) the number of payroll periods in that ~~fiscal year; year of the City.~~ The amount so deducted shall be turned over as soon as practicable after the applicable payroll period by the said Treasurer to the custodian of the Association as hereinbefore provided, and the Association shall have the authority to accept donations from any and all sources whatsoever.

**Sec. 18.** If at any time there shall not be sufficient assets in the retirement fund of the Association to pay fully the persons entitled to benefits provided herein, such persons shall be paid such benefits on a pro rata basis to the extent the assets of such fund will allow, as shall be determined by the Trustees; provided, that the assets of such fund determined as of the close of any fiscal year of the Association shall in no event be less than one hundred thirty percent (130%) of the present value of current retirees determined as of the close of that fiscal year. Effective on or after July 1, 1998, the Trustees shall obtain a written report from the Association's actuary as of July 1 of each year evenly divisible by two, or more frequently if the Trustees deem advisable, setting

forth the present value of the assets of the fund and the present value of current liabilities of current retirees.

**Sec. 19.** (a) Whenever any member of the Association has been employed by the City continuously for a period of at least 30 years, such member may make written application to the trustees for his normal retirement benefit, and whenever any member of the Association has been employed by the City continuously for a period of at least 25 years but not more than 30 years, such member may make written application to the Trustees for his early retirement benefit; provided, however, that such member must retire from the service of the City to receive such benefits. The normal and early retirement benefits of such member shall be a monthly pension for the remainder of his life, as provided herein below. For this purpose and for the purpose of Section 20 hereof, a member shall be deemed to have been employed by the City continuously if such member shall have been employed continuously by any combination of the Fire Department or Police Department (but only such employment by the Police Department as is described in subsection 16(b) and (c) hereof), and the transfer of a member from the employ of one of such organizations to the employ of the other such organization shall not be deemed to be a termination of employment by the City. Provided, that if a member has at least 25 years of employment with the City, but such service is not continuous solely because of a leave of absence lasting not more than a year and not described in Section 26, such member shall be deemed to have continuous employment with the City during such leave of absence; and provided further, that if a member has less than 25 years of employment with the City but the sum of his years of employment with the City plus any leave of absence lasting not more than one year and not described in Section 26, equals or exceeds 25 years, the period of such leave shall be deemed to be continuous employment with the City if such member contributes to the Association twelve dollars (\$12.00) for each month he was on such leave, plus interest at the rate of eight percent (8%), applicable to any payments made on and after July 1, 1989, per annum, computed on the amount accrued as of the end of each fiscal year of the Association.

(b) Effective beginning July 1, 1989, and ending June 30, 1990, the amount of the monthly pension for each member who is entitled to receive a normal retirement benefit (including members who retired prior to July 1, 1989) shall be two hundred dollars (\$200.00). Effective beginning July 1, 1990, and ending June 30, 1998, the amount of the monthly pension for each member who is entitled to receive a normal retirement benefit, including members who retired prior to July 1, 1990, shall be two hundred fifteen dollars (\$215.00). Effective on and after July 1, 1998, the amount of the monthly pension for each member who is entitled to receive a normal retirement benefit (including members who retired prior to that date) shall be two hundred five dollars (\$205.00). The amount of the monthly pension for each member who is entitled to receive an early retirement benefit as of any date prior to July 1, 1998, shall be the product of (1) and (2), where (1) is the applicable percentage listed in the following table based on his years of continuous employment at his early retirement date, and (2) is the amount of the payment that he would have received as a normal retirement benefit under this section as of that date:

Years of Employment at Retirement Date	Percentage of Normal Retirement Benefit
25	85%
26	88%
27	91%
28	94%
29	97%

Effective on and after July 1, 1998, the amount of the monthly pension for each member who began receiving an early retirement benefit prior to July 1, 1998, shall be further reduced by multiplying the monthly pension amount by 0.9535.

(c) Effective on and after July 1, 1998, the amount of the monthly pension of each member who retires on or after that date and is entitled to receive an early retirement benefit shall be the product of (1) the applicable percentage listed in the following table based on the member's years of continuous employment at the member's early retirement date, and (2) the amount of the payment that the member would have received as a normal retirement benefit under this section as of that date:

Years of Employment at Retirement Date	Percentage of Normal Retirement Benefit
25	70%
26	76%
27	82%
28	88%
29	94%

Payment shall be subject to the provisions of Section 18 of this act. Section 16(d) governs the determinations of a member's years of continuous employment.

(d) Any benefit payable to a member pursuant to this Section 19 shall commence not later than the April 1 immediately following the calendar year in which the member attains age 70 and 1/2 or, if later, the April 1 immediately following the calendar year in which the member retires from the service of the City. Additionally, the distribution of any such benefit shall be made in accordance with the requirements of section 401(a) of the Internal Revenue Code, including the minimum distribution incidental benefit requirement of section 1.401(a)(9)-2 of the Treasury Regulations, which are incorporated herein by reference. With respect to distributions made for the calendar years beginning on or after January 1, 2001, the act will apply the minimum distribution requirements of section 401(a)(9) of the Internal Revenue Code in accordance with the regulations under section 401(a)(9) of the Internal Revenue Code that were proposed on January 17, 2001, notwithstanding any provision of the act to the contrary. This amendment shall continue in effect until the end of the last calendar year beginning before the effective date of final regulations under section 401(a)(9) of the Internal Revenue Code or such other date as may be specified in guidance published by the Internal Revenue Service.

(e) Notwithstanding any provision in this Section 19 to the contrary, effective as of December 12, 1994, the act shall at all times be construed and enforced according to the requirements of the Uniformed Services Employment and Reemployment Rights Act of 1994.

**Sec. 20.** Whenever any member of the Association becomes totally and permanently unable, because of infirmity or disease affecting mind or body (whether or not induced by injury) to perform his duties for the City, which inability shall be determined by a

medical examination by a physician or physicians of good standing and repute selected by the Trustees, he shall be deemed to be a disabled member. If a disabled member has been employed by the City for at least five full years prior to suffering disability, he shall be entitled to retire and receive a monthly benefit payable for the remainder of his life.

Effective beginning July 1, 1989, and ending June 30, ~~1989, 1990~~, the monthly benefit of a member who retires as a disabled member (including a member who retired as a disabled member prior to July 1, 1989) shall equal eight dollars (\$8.00) times his years of service but in no event more than two hundred dollars (\$200.00) per month. Effective beginning July 1, 1990, and ending June 30, 1998, the monthly benefit of a member (including a member who retires as a disabled member prior to this date) shall equal eight dollars and sixty cents (\$8.60) times his years of service, but in no event more than two hundred fifteen dollars (\$215.00) per month. Effective on and after July 1, 1998, the monthly benefit of a member who retires as a disabled member, including a member who retires as a disabled member prior to July 1, 1998, shall equal eight dollars and twenty cents (\$8.20) times his years of service, but in no event more than two hundred five dollars (\$205.00) per month. For this purpose only, years of service shall mean the number of his earned years of service in the employment of the City (as determined pursuant to Section 16(d) of this act). Payments shall be subject to the provisions of Section 18 of this act.

Notwithstanding the foregoing provisions of this Section 20, in the case of a disabled member whose disability shall arise out of injuries incurred in fire safety activities, such as fire fighting, fire training and fire inspection, such monthly benefit shall in no event be less than forty dollars (\$40.00) per month, whether or not such disabled member was employed by the City for at least five years prior to suffering such disability. The determination of whether such disability arises out of injuries incurred in fire safety activities shall be made by the Trustees.

**Sec. 21.** Any disabled member of the Association who retires under Section 19 hereof and who had not been employed by the City for a period of at least 30 years prior to retirement, shall be subject to call by the Trustees for reexamination by a physician of good standing and repute selected by the Trustees and, if based upon such examination it is determined by the Trustees that such member is able to perform active duties for the City, such member may be reinstated and receive for his services the same compensation paid to other employees of the City of his rank or classification. If such member, upon being called by the Trustees, shall refuse to submit to an examination or shall refuse to be reinstated to active duty in the employ of the City after being found to be able to perform active duty, such benefits as he is then receiving under the provisions of this act shall immediately terminate and his membership in this Association shall automatically terminate. But in the event that such member is physically unable to resume active employment, or in the event he is able and willing to resume active employment but no job with the City is open for him at such time, his pension or compensation shall continue until there shall be an opening for such member and he is reemployed by the City. For the purpose of this Section 21, employment with the City shall mean only employment with the Fire Department or Police Department (but employment with the Police Department shall be included only with regard to any such member who was employed with the Police Department prior to his retirement under Section 20 hereof).

**Sec. 22.** When any member of the Association shall resign or be dismissed from employment by the City (which for this purpose shall include only employment with the



Fire Department or Police Department), he shall receive a sum of money equal to all monies paid into the Association by him. Upon the death of any member of the Association while in the employment of the City, a sum of money equal to all monies paid into the Association by such deceased member shall be paid to the beneficiary or beneficiaries designated in writing by such deceased member, or in default thereof, to his estate. If, after retirement, a member of the Association shall die before having received an amount equal to his contributions to the Association, there shall be paid to the beneficiary or beneficiaries designated by such member, or in default thereof to his estate, an amount equal to his contributions less the sum of retirement benefits paid to such member. The reimbursements provided in this Section 22 shall be in cash in a lump sum, unless otherwise determined by the Trustees with the consent in writing of the recipient thereof less interest, if any, previously contributed to the Association by the member pursuant to Section 16 or Section 19.

**Sec. 23.** No amount payable or held by the Association under this act for the benefit of any member or beneficiary thereof shall be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance or charge, nor shall any amount payable or held under this act for the benefit of any member or beneficiary thereof be in anywise liable for his debts, contracts, liabilities, engagements, or torts, nor be subject to any legal process to levy upon or attach, but the provisions of this Section 22 shall not be applicable as regards any dealings with or obligations to the Winston-Salem Firemen's Credit Union.

**Sec. 24.** Out of the amount paid to the Insurance Commissioner of the State of North Carolina upon the amount of all premiums on fire and lightning policies covering property situated in the corporate limits of the City, the Insurance Commissioner of the State of North Carolina shall pay annually to the Treasurer of the City ninety-five percent (95%), and the Treasurer of the City shall immediately pay over the same to the treasurer of the Association, or if the treasurer of the Association shall so direct, the Treasurer of the City shall pay such amount directly to the custodian.

**Sec. 25.** No member of this Association or Trustee shall be personally liable in any manner whatsoever to any person, association, firm or corporation by reason of his connection with, or act or acts on behalf of, said Association, unless such act or acts are fraudulently committed.

**Sec. 26.** If a member of the Association, or an employee of the Fire Department or Police Department who is not a member of the Association due to failure to meet the minimum age requirements of subsection 2(b) hereof, is granted a leave of absence from employment by the City on account of accidental injury or temporary illness, military service during time of active warfare, compulsory military service in time of peace, or other good cause, for the purpose of this act such employee shall be deemed to have remained in the employment of the City during the period of such leave of absence or any extension thereof if he shall return to active service with the City promptly following the end of the period of such leave of absence or extension thereof. During such leave of absence or extension thereof, the Treasurer of the City shall make no deductions from the salary, if any, of such member, and such member shall not otherwise be required to make any contributions to the Association during or with respect to such period.

**Sec. 27.** If any person entitled to benefits under this act shall be physically or mentally incapable of receiving or acknowledging receipt of such benefits, the Trustees, upon receipt of satisfactory evidence of such incapacity and that another person or institution is maintaining such person entitled to benefits, and that no guardian or

committee has been appointed for him, may cause any benefits otherwise payable to him to be made to such person or institution so maintaining him.

**Sec. 28.** The provisions of this act shall be administered on an equitable and nondiscriminatory basis, it being the intent hereof that where the Trustees are given discretionary powers, such powers shall be exercised in an equitable manner and so as to prevent discrimination between persons similarly situated. All assets of the Association shall be administered for the exclusive benefit of the members of the Association and their beneficiaries, and as a fund to provide for such members or beneficiaries the benefits provided in this act. It shall be impossible for any part of the principal or income of the retirement fund of the Association to be used for or diverted to purposes other than for the exclusive benefit of the members of the Association or their beneficiaries as provided in this act; except that the Trustees may use such assets to pay the reasonable expenses incurred in administering the said fund and any debts, liabilities or obligations of said fund. The assets and income of the fund shall be exempt from all taxes, including income taxes, imposed by the State of North Carolina or any political subdivision thereof.

**Sec. 28A.** (a) Upon termination of the Association or upon complete discontinuance of contributions to the Association, the rights of all members of the Association to benefits accrued to the date of the termination or discontinuance, to the extent then funded, are nonforfeitable.

(b) Forfeitures under the Association may not be applied to increase the benefits that any member would otherwise receive under the Association.

(c) Notwithstanding any provision of the Association to the contrary, the maximum annual benefit payable in the form of a straight life annuity from the Association on behalf of a member, when combined with any benefits from another qualified retirement plan maintained by the Fire Department of the City of Winston-Salem, shall not exceed the amount permitted by section 415 of the Internal Revenue Code.

(d) In addition to the other applicable limitations set forth in this act, and notwithstanding any other provision of this act to the contrary, for plan years beginning on or after January 1, 1996, the annual compensation of each member taken into account under this act shall not exceed the OBRA 1993 annual compensation limit. The OBRA 1993 annual compensation limit is one hundred fifty thousand dollars (\$150,000), as adjusted by the Commissioner for increase in the cost of living in accordance with section 401(a)(17)(B) of the Internal Revenue Code. The cost of living adjustment in effect for a calendar year applies to any period, not exceeding 12 months, over which compensation is determined (the "determination period") beginning in that calendar year. If a determination period consists of fewer than 12 months, the OBRA 1993 annual compensation limit shall be multiplied by a fraction, the numerator of which is the number of months in the determination period, and the denominator of which is 12. If compensation for any prior determination period is taken into account in determining a member's benefits accruing in the current plan year, the compensation for that prior determination period is subject to the OBRA 1993 annual compensation limit in effect for that prior determination period. For this purpose, for determination periods beginning before the first day of the first plan year beginning on or after January 1, 1996, the OBRA 1993 annual compensation limit is one hundred fifty thousand dollars (\$150,000). Effective for plan years beginning on or after January 1, 2002, the OBRA 1993 annual compensation limit shall be two hundred

thousand dollars (\$200,000), as adjusted by the Commissioner for increases in the cost of living in accordance with section 401(a)(17)(B) of the Internal Revenue Code.

(e) This subsection applies to distributions made on or after January 1, 2002. Notwithstanding any provision of this act to the contrary that would otherwise limit a distributee's election under this subsection, a distributee may elect, at the time and in the manner prescribed by the Trustees, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover. The following definitions shall apply for purposes of this subsection:

- (1) Eligible rollover distribution. An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include:
  - a. Any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of 10 years or more;
  - b. Any distribution to the extent such distribution is required under section 401(a)(9) of the Internal Revenue Code; or
  - c. Any hardship distribution described in section 401(k)(2)(B)(i)(IV) of the Internal Revenue Code.
- (2) Eligible retirement plan. An eligible retirement plan is an individual retirement account described in section 408(a) of the Internal Revenue Code, an individual retirement annuity described in section 408(b) of the Internal Revenue Code, or a qualified trust described in section 401(a) of the Internal Revenue Code, that accepts the distributee's eligible rollover distribution.
- (3) Distributee. A distributee includes a member or former member of the Association. In addition, the surviving spouse of a member or former member is a distributee with regard to the interest of the member or former member.
- (4) Direct rollover. A direct rollover is a payment by the Association to the eligible retirement plan specified by the distributee.

**Sec. 29.** The fiscal year of the Association shall end on June 30 of each year.

**Sec. 30.** Throughout this act, use of the masculine pronoun shall include the feminine.

**Sec. 31.** If any part or section of this act shall be declared unconstitutional or invalid by the Supreme Court of North Carolina or any other court of last resort of competent jurisdiction it shall in no wise affect the remainder of this act, and the remainder shall remain in full force and effect.

**Sec. 32.** All the laws and clauses of laws in conflict with the provisions of this act are hereby repealed."

**SECTION 2.** None of the provisions of this act shall create an additional liability for the Winston-Salem Firemen's Retirement Fund Association unless sufficient funds are available to pay fully for the liability.

**SECTION 3.** This act becomes effective July 1, 2003.

In the General Assembly read three times and ratified this the 13<sup>th</sup> day of May, 2003.

Became law on the date it was ratified.

**H.B. 24****Session Law 2003-36**

AN ACT TO AUTHORIZE VETERANS ADMINISTRATION POLICE OFFICERS TO PROVIDE ASSISTANCE TO STATE AND LOCAL LAW ENFORCEMENT AGENCIES IN THE SAME MANNER AS OTHER FEDERAL LAW ENFORCEMENT OFFICERS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 15A-406(a) reads as rewritten:

"(a) For purposes of this section, "federal law enforcement officer" means any of the following persons who are employed as full-time law enforcement officers by the federal government and who are authorized to carry firearms in the performance of their duties:

- (1) United States Secret Service special agents;
- (2) Federal Bureau of Investigation special agents;
- (3) Bureau of Alcohol, Tobacco and Firearms special agents;
- (4) United States Naval Investigative Service special agents;
- (5) Drug Enforcement Administration special agents;
- (6) United States Customs Service officers;
- (7) United States Postal Service inspectors;
- (8) Internal Revenue Service special agents;
- (9) United States Marshals Service marshals and deputies;
- (10) United States Forest Service officers;
- (11) National Park Service officers;
- (12) United States Fish and Wildlife Service officers;
- (13) Immigration and Naturalization Service officers; ~~and~~
- (14) Tennessee Valley Authority ~~officers.~~ officers; and
- (15) Veterans Administration police officers."

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

In the General Assembly read three times and ratified this the 8<sup>th</sup> day of May, 2003.

Became law upon approval of the Governor at 12:38 p.m. on the 14<sup>th</sup> day of May, 2003.

**H.B. 1205****Session Law 2003-37**

AN ACT TO FACILITATE THE IMPLEMENTATION OF THE "CLEAN SMOKESTACKS ACT" BY EXEMPTING SANITARY LANDFILLS USED FOR THE DISPOSAL OF WASTE GENERATED BY INVESTOR-OWNED PUBLIC UTILITY COAL-FIRED GENERATING UNITS THAT ARE SUBJECT TO THE "CLEAN SMOKESTACKS ACT" FROM THE REQUIREMENT THAT FRANCHISES BE OBTAINED FOR THE OPERATION OF THOSE LANDFILLS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 130A-294(b1) is amended by adding a new subdivision to read:

"(5) As used in this subdivision, 'coal-fired generating unit' and 'investor-owned public utility' have the same meaning as in G.S. 143-215.107D(a). Notwithstanding subdivisions (a)(4), (b1)(3), or (b1)(4) of this section, no franchise shall be required for a sanitary landfill used only to dispose of waste generated by a coal-fired generating unit that is owned or operated by an investor-owned utility subject to the requirements of G.S. 143-215.107D."

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

In the General Assembly read three times and ratified this the 5<sup>th</sup> day of May, 2003.

Became law upon approval of the Governor at 12:39 p.m. on the 14<sup>th</sup> day of May, 2003.

**H.B. 58**

**Session Law 2003-38**

AN ACT TO VALIDATE CERTAIN NOTARIAL ACTS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 10A-16(d) reads as rewritten:

"(d) This section applies to notarial acts performed on or before ~~July 1, 2002~~ March 1, 2003."

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

In the General Assembly read three times and ratified this the 8<sup>th</sup> day of May, 2003.

Became law upon approval of the Governor at 12:40 p.m. on the 14<sup>th</sup> day of May, 2003.

**S.B. 102**

**Session Law 2003-39**

AN ACT TO PROVIDE THAT WHEN A VACANCY OCCURS IN THE OFFICE OF SHERIFF OF SURRY COUNTY, THE BOARD OF COMMISSIONERS SHALL CONSULT WITH THE COUNTY EXECUTIVE COMMITTEE OF THE PARTY WITH WHICH THE SHERIFF WAS ELECTED AS A NOMINEE, AND IF THE EXECUTIVE COMMITTEE MAKES A NOMINATION WITHIN 30 DAYS, THE BOARD OF COMMISSIONERS MUST APPOINT THAT PERSON.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 162-5.1 reads as rewritten:

"§ 162-5.1. **Vacancy filled in certain counties; duties performed by coroner or chief deputy.**

If any vacancy occurs in the office of sheriff, the coroner of the county shall execute all process directed to the sheriff until the board shall elect a sheriff to supply the vacancy for the residue of the term, who shall possess the same qualifications, enter into the same bond, and be subject to removal, as the sheriff regularly elected. If the sheriff were elected as a nominee of a political party, the board of commissioners shall consult the county executive committee of that political party before filling the vacancy, and

shall elect the person recommended by the county executive committee of that party, if the party makes a recommendation within 30 days of the occurrence of the vacancy. If the board should fail to fill such vacancy, the coroner shall continue to discharge the duties of sheriff until it shall be filled.

In those counties where the office of coroner has been abolished, the chief deputy sheriff, or if there is no chief deputy, then the senior deputy in years of service, shall perform all the duties of the sheriff until the county commissioners appoint some person to fill the unexpired term. In all counties the regular deputy sheriffs shall, during the interim of the vacancy, continue to perform their duties with full authority.

This section shall apply only in the following counties: Alamance, Alexander, Alleghany, Avery, Beaufort, Brunswick, Buncombe, Burke, Cabarrus, Caldwell, Carteret, Cherokee, Clay, Cleveland, Davidson, Davie, Edgecombe, Forsyth, Gaston, Graham, Guilford, Haywood, Henderson, Hyde, Jackson, Lincoln, Madison, McDowell, Mecklenburg, Moore, New Hanover, Onslow, Pender, Polk, Randolph, Rockingham, Rutherford, Sampson, Stanly, Stokes, Surry, Transylvania, Wake, and Yancey."

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

In the General Assembly read three times and ratified this the 14<sup>th</sup> day of May, 2003.

Became law on the date it was ratified.

### S.B. 356

### Session Law 2003-40

AN ACT AUTHORIZING THE CITY OF HENDERSON TO GIVE ANNUAL NOTICE TO VIOLATORS OF THE CITY'S WEEDED LOT ORDINANCE.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** The Charter of the City of Henderson, being Chapter 780 of the 1967 Session Laws, as amended, is amended by adding the following new section:

"Sec. 40.1. Weeded Lot Ordinance. The City may notify a violator of the City's weeded lot ordinance that if the violator's property is found to be in violation of the ordinance again in the calendar year in which notice is given, the City shall, without further notice, take action to remedy the violation and the expense of that action shall be charged to the violator. The notice may also provide that for each additional violation the City shall charge the violator the expense of the action and a surcharge of up to fifty percent (50%) over the expense to remedy the preceding violation. Notice of violation shall be served by registered or certified mail."

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

In the General Assembly read three times and ratified this the 14<sup>th</sup> day of May, 2003.

Became law on the date it was ratified.

### S.B. 490

### Session Law 2003-41

AN ACT AMENDING THE CHARTER OF THE CITY OF WILMINGTON TO ALLOW THE CITY MANAGER TO SETTLE CLAIMS AGAINST THE CITY WHEN THE AMOUNT OF THE CLAIMS DO NOT EXCEED THE CITY'S INSURANCE DEDUCTIBLE.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Section 29.1 of the Charter of the City of Wilmington, being Chapter 495 of the 1977 Session Laws, as amended by Chapter 617 of the 1981 Session Laws, is repealed.

**SECTION 2.** Section 29.2 of the Charter of the City of Wilmington, being Chapter 495 of the 1977 Session Laws, as amended by Chapter 617 of the 1981 Session Laws, reads as rewritten:

"Sec. 29.2. Settlement of claims by city manager. The city manager may settle claims against the city for:

(1) Personal injury or for damages to property when the amount involved does not exceed the sum of ~~twenty-five hundred dollars (\$2500)~~, two thousand five hundred dollars (\$2,500) or such other amount approved by the city council, and does not exceed the actual loss sustained, including loss of time, medical expenses, and any other expense actually incurred; and

(2) The taking of small portions of private property which are needed for street or utility rights-of-way, or rounding of corners at street intersections, or storm sewer rights-of-way, when the amount involved in any such settlement does not exceed the sum of ~~twenty-five hundred dollars (\$2500)~~, two thousand five hundred dollars (\$2,500) or such other amount approved by the city council, and does not exceed the actual loss sustained.

Settlement of a claim by the city manager pursuant to this section shall constitute a complete release of the city from any and all damages sustained by the person involved in such settlement in any manner arising out of the accident, occasion, or taking complained of. All such releases shall be approved by the city attorney."

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

In the General Assembly read three times and ratified this the 14<sup>th</sup> day of May, 2003.

Became law on the date it was ratified.

## **S.B. 123**

## **Session Law 2003-42**

AN ACT TO ALLOW THE CITIES OF CLINTON AND LUMBERTON AND THE TOWN OF FRANKLIN TO DECLARE RESIDENTIAL BUILDINGS IN COMMUNITY DEVELOPMENT TARGET AREAS UNSAFE AND TO DEMOLISH THOSE BUILDINGS USING THE SAME PROCESS AUTHORIZED FOR THE DEMOLITION OF UNSAFE NONRESIDENTIAL BUILDINGS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Section 4 of S.L. 2002-118, as amended by S.L. 2003-23, reads as rewritten:

"**SECTION 4.** Sections 1 and 2 of this act apply to the Cities of Clinton, Durham, Fayetteville, Goldsboro, and High Point, and the Towns of Franklin, Hope Mills and Spring Lake only."

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

In the General Assembly read three times and ratified this the 15<sup>th</sup> day of May, 2003.

Became law on the date it was ratified.

AN ACT AUTHORIZING THE CITY OF ROANOKE RAPIDS TO CONVEY  
CERTAIN PROPERTY AT A PRIVATE SALE.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Notwithstanding Article 12 of Chapter 160A of the General Statutes, the City of Roanoke Rapids may convey by private negotiation and sale, with or without monetary consideration, any or all of its right, title, and interest in the following described property under the terms and conditions that the City Council deems appropriate:

**Old Police Station:** Lots Nos. 630, 632, 634, 636, 638 and the northern ten (10) feet of Lot No. 640, each of said lots having a frontage of twenty-five (25) feet on the east side of Roanoke Avenue and extending back between parallel lines 140 feet to an alley; all of which are shown on map of the property of the Roanoke Rapids Power Company, Roanoke Rapids, North Carolina, made by C. F. Gore and Company, Engineers, of Weldon, North Carolina, December 18, 1915, and of record in the Office of the Register of Deeds for Halifax County, North Carolina, in Plat Book 1, at pages Nos. 11, 12, 13 and 14, a reference to which is hereby expressly made for a more accurate description.

**Vacant Lot on Becker Drive:** All that certain tract or parcel of land lying and being situate in the City of Roanoke Rapids, Halifax County, North Carolina, more particularly described as follows: Beginning at an iron pipe in the eastern right of way of Becker Drive, said iron pipe being the southwest corner of lands owned by the Roanoke Rapids Housing Authority; thence along the southern line of said Housing Authority property, N. 67° 55' E. 250 feet to an iron pipe; thence S. 1° 03' E. 154.5 feet to an iron pipe in the northern margin of a cul-de-sac to be named Wicker Court; thence along said cul-de-sac a curve to the left, a distance of 86.2 feet to an iron pipe; thence S. 80° 10' W. 146.5 feet to an iron pipe in the Eastern margin of Becker Drive, thence along the Eastern margin of Becker Drive, N. 16° 10' W. 150 feet to the point of beginning, containing 36,528 sq. feet or .839 acre, more or less, and being the identical real property as shown and designated on that "Plat Showing Property Conveyed to The City of Roanoke Rapids, by Becker Farms, Inc., Roanoke Rapids T.P., Halifax Co., N. C.," dated July 12, 1981, prepared by Cyril C. Waters, Registered Surveyor; reference to said map and deed being hereby made for greater certainty of description.

**Fire Department Sleeping Quarters & Offices:** Those three (3) certain lots, together with all improvements thereon, in the City of Roanoke Rapids, Halifax County, North Carolina, each fronting 25 feet on the Eastern side of Roanoke Avenue and running back between parallel lines 140 feet to an alley, and being shown and designated as Lots Nos. six hundred twenty-four (624), six hundred twenty-six (626), and six hundred twenty-eight (628) on that certain map of record in the office of the Register of Deeds for said Halifax County, in Plat Book 1 at pages 11, 12, 13 and 14; the same being the identical real property conveyed unto the said M. S. Benton, as Trustee for The Planters National Bank & Trust Company, by deed of M. R. Bradley, et ux, dated September 27, 1963, recorded in Book 680 at page 570, Halifax Public Registry; reference to said map and deed being hereby made for greater certainty of description.



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

In the General Assembly read three times and ratified this the 19<sup>th</sup> day of May, 2003.

Became law on the date it was ratified.

**H.B. 326**

**Session Law 2003-44**

**AN ACT ADDING CERTAIN DESCRIBED PROPERTY TO THE CORPORATE LIMITS OF THE TOWN OF JONESVILLE.**

*The General Assembly of North Carolina enacts:*

**SECTION 1.** The following described property is added to the corporate limits of the Town of Jonesville:

BEGINNING at a concrete monument located in the eastern right-of-way line of Interstate Highway 77, said concrete monument having North Carolina grid coordinates Y=908249.375 and X=1464613.800; thence, from said point and place of BEGINNING North 48° 54' 32" East 184.82 feet to a concrete monument; thence, North 21° 23' 24" East 321.90 feet to a concrete monument; thence, North 54° 34' 21" East 293.27 feet to a concrete monument; thence North 00° 39' 00" 171.55" to a concrete monument; thence, North 55° 50' 25" East 148.30 feet to a concrete monument; thence, North 83° 39' 53" East 94.81 feet to a point in the western line of a proposed 60-foot right-of-way; thence, crossing said proposed 60-foot right-of-way North 83° 39' 53" East 60.38 feet to a point located in the eastern line of said proposed right-of-way; thence, on a new line North 83° 39' 53" East 336.42 feet to a concrete monument; thence, South 85° 13' 43" East 334.44 feet to a concrete monument; thence, North 79° 08' 26" East 208.13 feet to a concrete monument; thence, South 05° 19' 10" West 143.00 feet to a point; thence, South 04° 46' 41" West 907.32 feet to a concrete monument; thence, South 04° 46' 41" West 195.75 feet to an iron pin; thence, South 04° 32' 35" West 892.20 feet to an iron pin; thence, South 68° 43' 39" West 769.81 feet to an iron pin; thence, North 55° 25' 55" West 155.98 feet to an iron pin; thence, North 73° 32' 19" East 160.44 feet to an iron pin; thence, North 36° 02' 14" West 182.55 feet to an iron pin; thence, North 16° 51' 10" West 155.88 feet to an iron pin; thence, South 41° 27' 04" West 86.59 feet to an iron pin; thence, North 24° 30' 31" West 204.34 feet to an iron pin; thence, North 01° 14' 31" East 223.49 feet to an iron pin; thence, North 31° 41' 43" West 253.16 feet to an iron pin; thence, South 78° 08' 29" West 78.52 feet to an iron pin; thence, North 16° 49' 27" West 171.70 feet to an iron pin; thence, South 83° 45' 41" West 119.10 feet to an iron pin; thence, North 13° 30' 46" West 115.54 feet to a concrete monument; thence, South 78° 52' 11" West 20.65 feet to a concrete monument; thence, North 13° 34' 19" West 272.00 feet to a concrete monument; THE POINT AND PLACE OF BEGINNING, and containing 61.614 acres more or less as shown on the survey of the property for PHILLIPS-VAN HEUSEN CORPORATION prepared by Foothills Forestry and Surveying, dated November 18, 1992, and updated December 7, 1992, Job No. 92-2223, reference to which is hereby made for a more particular description.

**SECTION 2.** This act becomes effective June 30, 2003.

In the General Assembly read three times and ratified this the 19<sup>th</sup> day of May, 2003.

Became law on the date it was ratified.

**H.B. 480****Session Law 2003-45**

AN ACT TO PROVIDE FOR STAGGERED FOUR-YEAR TERMS FOR ALL FIVE MEMBERS OF THE BOARD OF COMMISSIONERS OF WILKES COUNTY, RATHER THAN THE CURRENT SYSTEM WHERE FOUR OF THE MEMBERS ARE ELECTED FOR STAGGERED FOUR-YEAR TERMS AND ONE FOR A TWO-YEAR TERM.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** In 2004 and quadrennially thereafter, three members of the Board of Commissioners of Wilkes County shall be elected for four-year terms. In 2006 and quadrennially thereafter, two members of the Board of Commissioners of Wilkes County shall be elected for four-year terms.

**SECTION 2.** Chapter 101 of the 1961 Session Laws and Chapter 217 of the 1963 Session Laws are repealed.

**SECTION 3.** This act is effective when it becomes law and does not affect the term of any current member.

In the General Assembly read three times and ratified this the 19<sup>th</sup> day of May, 2003.

Became law on the date it was ratified.

**H.B. 512****Session Law 2003-46**

AN ACT TO ALLOW NONRESIDENT PROPERTY OWNERS TO SERVE ON THE HISTORIC PRESERVATION COMMISSION IN THE TOWN OF NAGS HEAD.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 160A-400.7 reads as rewritten:

**"§ 160A-400.7. Historic Preservation Commission.**

Before it may designate one or more landmarks or historic districts, a municipality shall establish or designate a historic preservation commission. The municipal governing board shall determine the number of the members of the commission, which shall be at least three, and the length of their terms, which shall be no greater than four years. A majority of the members of such a commission shall have demonstrated special interest, experience, or education in history, architecture, archaeology, or related fields. All the members shall reside or own real property within the territorial jurisdiction of the municipality as established pursuant to G.S. 160A-360. The commission may appoint advisory bodies and committees as appropriate.

In lieu of establishing a historic preservation commission, a municipality may designate as its historic preservation commission, (i) a separate historic districts commission or a separate historic landmarks commission established pursuant to this Part to deal only with historic districts or landmarks respectively, (ii) a planning agency established pursuant to this Article, or (iii) a community appearance commission established pursuant to Part 7 of this Article. In order for a commission or board other than the preservation commission to be designated, at least three of its members shall have demonstrated special interest, experience, or education in history, architecture, or related fields. At the discretion of the municipality the ordinance may also provide that the preservation commission may exercise within a historic district any or all of the powers of a planning agency or a community appearance commission.

A county and one or more cities in the county may establish or designate a joint preservation commission. If a joint commission is established or designated, the county and cities involved shall determine the residence requirements of members of the joint preservation commission."

**SECTION 2.** This act applies to the Town of Nags Head only.

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

In the General Assembly read three times and ratified this the 19<sup>th</sup> day of May, 2003.

Became law on the date it was ratified.

**H.B. 686**

**Session Law 2003-47**

**AN ACT TO EXEMPT DARE COUNTY FROM CERTAIN REQUIREMENTS FOR PUBLIC CONTRACTS.**

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Dare County may contract for the design and construction of an administration building and the renovation of the Old Dare Courthouse without being subject to the requirements of G.S. 143-128, 143-129, 143-131, and 143-132. Notwithstanding any provision of law, Dare County may award each contract in its sole discretion.

**SECTION 2.** This act is effective when it becomes law and expires July 1, 2008.

In the General Assembly read three times and ratified this the 19<sup>th</sup> day of May, 2003.

Became law on the date it was ratified.

**H.B. 750**

**Session Law 2003-48**

**AN ACT TO AUTHORIZE THE TOWN OF PINEBLUFF TO CONVEY TO ADJACENT PROPERTY OWNERS INTERNAL CENTER COURTS AND ALLEYS AT PRIVATE NEGOTIATED SALE.**

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Notwithstanding Article 12 of Chapter 160A of the General Statutes, the Town of Pinebluff may convey by private negotiation and sale to the adjacent property owners any or all of its right, title, and interest in the center courts and any adjacent unopened alleys of the platted blocks of the Town for which the Town has assumed responsibility, whether by quitclaim or otherwise. Any such conveyances prior to the date this act becomes effective are confirmed and validated.

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

In the General Assembly read three times and ratified this the 19<sup>th</sup> day of May, 2003.

Became law on the date it was ratified.

**S.B. 389**

**Session Law 2003-49**

AN ACT REENACTING THE SUBSTANTIVE PROVISIONS OF S.L. 2000-65 RELATING TO MECKLENBURG COUNTY'S AUTHORITY TO SELL AND CONVEY REAL ESTATE.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Sections 1 and 2 of S.L. 2000-65 are reenacted.

**SECTION 2.** This act becomes effective July 1, 2002, and expires June 30, 2005.

In the General Assembly read three times and ratified this the 20<sup>th</sup> day of May, 2003.

Became law on the date it was ratified.

**S.B. 417**

**Session Law 2003-50**

AN ACT TO EXTEND THE DEADLINE FOR WAYNE COUNTY TO DESIGNATE STAGGERED TERMS FOR ITS BOARD OF COMMISSIONERS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Section 2 of S.L. 2002-44 reads as rewritten:

"**SECTION 2.** In 2004, four of the members of the Board of Commissioners of Wayne County shall be elected for four-year terms, and three of the members of the Board of Commissioners of Wayne County shall be elected for two-year terms. The Board of Commissioners of Wayne County shall, prior to ~~January~~September 1, 2003, designate which seats shall be elected in 2004 for four-year terms, and which shall be elected in 2004 for two-year terms. Successors to all seven seats elected in 2004 shall be elected to four-year terms."

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

In the General Assembly read three times and ratified this the 20<sup>th</sup> day of May, 2003.

Became law on the date it was ratified.

**S.B. 477**

**Session Law 2003-51**

AN ACT AMENDING THE CHARTER OF THE CITY OF DURHAM TO ALLOW THE CITY COUNCIL TO AUTHORIZE THE CITY'S HOUSING APPEALS BOARD TO HEAR PUBLIC HEALTH NUISANCES CASES.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Section 102(b) of the Charter of the City of Durham, being Chapter 671 of the 1975 Session Laws, as amended by Section 1 of Chapter 756 of the 1987 Session Laws, reads as rewritten:

"(b) The city council may, by ordinance, also authorize the ~~housing appeals board~~ Housing Appeals Board to hear and decide, without the necessity of further action by the council, any other cases under Parts 5 or 6 of Article 19 of Chapter 160A of the General Statutes and ~~Article II Statutes, Article 11 of Chapter VI of this Charter~~ Charter, and G.S. 160A-193 which, in the absence of such ordinance, would or may reach the council for action or decision. ~~In hearing any such cases,~~ If a case is heard by

the Housing Appeals Board, the same procedures for the hearing of appeals under subsection (a) herein shall apply, and the decision of the board shall be reviewable in the same manner as decisions under subsection (a) herein."

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

In the General Assembly read three times and ratified this the 20<sup>th</sup> day of May, 2003.

Became law on the date it was ratified.

## H.B. 234

## Session Law 2003-52

AN ACT TO CLARIFY THE APPLICATION PROCESS FOR COMMUNITY COLLEGE STUDENTS REQUESTING FINANCIAL ASSISTANCE.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 115D-40.1(c) reads as rewritten:

"(c) Administration of Program. – The State Board shall adopt rules and policies for the disbursement of the financial assistance provided in this section. ~~Students must apply for either federal Pell Grants or complete a Free Application for Federal Student Aid (FAFSA) to be eligible for consideration for financial assistance.~~ Degree, diploma, and certificate students must complete a Free Application for Federal Student Aid (FAFSA) to be eligible for financial assistance. The State Board may contract with the State Education Assistance Authority for administration of these financial assistance funds. These funds shall not revert at the end of each fiscal year but shall remain available until expended for need-based financial assistance.

The State Board shall ensure that at least one counselor is available at each college to inform students about federal programs and funds available to assist community college students including, but not limited to, Pell Grants and HOPE and Lifetime Learning Tax Credits and to actively encourage students to utilize these federal programs and funds."

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

In the General Assembly read three times and ratified this the 19<sup>th</sup> day of May, 2003.

Became law upon approval of the Governor at 5:34 p.m. on the 20<sup>th</sup> day of May, 2003.

## H.B. 950

## Session Law 2003-53

AN ACT TO REQUIRE THE DEPARTMENT OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION TO OBTAIN THE APPROVAL OF THE COURT BEFORE PLACING A JUVENILE COMMITTED TO THE DEPARTMENT IN A PROGRAM NOT LOCATED IN A YOUTH DEVELOPMENT CENTER OR DETENTION FACILITY.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 7B-2513(e) reads as rewritten:

"(e) A commitment order accompanied by information requested by the Department shall be forwarded to the Department. The Department shall place the juvenile in the youth development center that would best provide for the juvenile's needs and shall notify the committing court. The Department may assign a juvenile

committed for delinquency to any institution ~~or other program~~ of the Department or licensed by the Department, which program is appropriate to the needs of the juvenile.

The Department, after assessment of the juvenile, may provide commitment services to the juvenile in a program not located in a youth development center or detention facility. If the Department recommends that commitment services for the juvenile are to be provided in a setting that is not located in a youth development center or detention facility, the Department shall file a motion, along with information about the recommended services for the juvenile, with the committing court prior to placing the juvenile in the identified commitment program. The Department shall send notice of the motion to the District Attorney, the juvenile, and the juvenile's attorney. Upon receipt of the motion filed by the Department, the court may enter an order without the appearance of witnesses and without hearing if the court determines that the identified commitment program is appropriate and a hearing is not necessary. The court must hold a hearing if the juvenile or the juvenile's attorney requests a hearing. If the court notifies the Department of its intent to hold a hearing, the date for that hearing shall be set by the court and the Department shall place the juvenile in a youth development center or detention facility until the determination of the court at that hearing."

**SECTION 2.** This act becomes effective October 1, 2003, and applies to dispositions entered on or after that date.

In the General Assembly read three times and ratified this the 19<sup>th</sup> day of May, 2003.

Became law upon approval of the Governor at 5:35 p.m. on the 20<sup>th</sup> day of May, 2003.

**H.B. 746****Session Law 2003-54**

AN ACT TO AMEND AND MODERNIZE THE LAW NAMING THE INDIAN TRIBES IN THIS STATE BY ADDING CLARIFYING INFORMATION ABOUT REFERENCES TO THE LUMBEE TRIBE AND BY ADDING SECTIONS RECOGNIZING THE MEHERRIN TRIBE AND THE OCCANEECHI BAND OF THE SAPONI NATION.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 71A-3 reads as rewritten:

**"§ 71A-3. Lumbee Tribe of North Carolina; rights, privileges, immunities, obligations and duties.**

The Indians now residing in Robeson and adjoining counties of North Carolina, originally found by the first white settlers on the Lumbee River in Robeson County, and claiming joint descent from remnants of early American Colonists and certain tribes of Indians originally inhabiting the coastal regions of North Carolina, who have previously been known as "Croatan Indians," "Indians of Robeson County," and "Cherokee Indians of Robeson County," shall, from and after April 20, 1953, be designated and officially recognized as Lumbee Tribe of North Carolina and shall continue to enjoy all rights, privileges and immunities enjoyed by them as citizens of the State as now provided by law, and shall continue to be subject to all the obligations and duties of citizens under the law."

**SECTION 2.** Chapter 71A of the General Statutes is amended by adding two new sections to read:

**"§ 71A-7.1. Meherrin Tribe of North Carolina; rights, privileges, immunities, obligations and duties.**

The Indians now residing in small communities in Hertford, Bertie, Gates, and Northampton Counties, who in 1726 were granted reservational lands at the mouth of the Meherrin River in the vicinity of present-day Parker's Ferry near Winton in Hertford County, and who are of the same linguistic stock as the Cherokee, Tuscarora, and other tribes of the Iroquois Confederacy of New York and Canada, shall, from and after July 20, 1971, be designated and officially recognized as the Meherrin Tribe of North Carolina, and shall continue to enjoy all their rights, privileges, and immunities as citizens of the State as now or hereafter provided by law, and shall continue to be subject to all the obligations and duties of citizens under the law.

**"§ 71A-7.2. Occaneechi Band of Saponi Nation in North Carolina; rights, privileges, immunities, obligations and duties.**

The Indians now living primarily in the old settlement of Little Texas in Pleasant Grove Township, Alamance County, who are lineal descendants of the Saponi and related Indians who occupied the Piedmont of North Carolina and Virginia in precontact times, and specifically of those Saponi and related Indians who formally became tributary to Virginia under the Treaties of Middle Plantation in 1677 and 1680, and who under the subsequent treaty of 1713 with the Colony of Virginia agreed to join together as a single community, shall, from and after July 20, 1971, be designated and officially recognized as the Occaneechi Band of the Saponi Nation of North Carolina, and shall continue to enjoy all their rights, privileges, and immunities as citizens of the State as now or hereafter provided by law, and shall continue to be subject to all the obligations and duties of citizens under the law."

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

In the General Assembly read three times and ratified this the 19<sup>th</sup> day of May, 2003.

Became law upon approval of the Governor at 5:36 p.m. on the 20<sup>th</sup> day of May, 2003.

**H.B. 710**

**Session Law 2003-55**

AN ACT TO ADD A MEMBER REPRESENTING THE OCCANEECHI BAND OF THE SAPONI NATION TO THE BOARD OF THE NORTH CAROLINA INDIAN CULTURAL CENTER.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Subsection (b) of Section 2 of Chapter 41 of the 1997 Session Laws, as amended by S.L. 1998-19 and S.L. 2001-318, reads as rewritten:

"(b) The Board of the North Carolina Indian Cultural Center, Inc., shall consist of ~~17~~ 18 members, appointed as follows:

- (1) One member representing each of the following Indian groups recognized by the State of North Carolina: the Coharie of Sampson and Harnett Counties; the Eastern Band of Cherokees; the Haliwa of Halifax, Warren, and adjoining counties; the Lumbees of Robeson, Hoke, and Scotland Counties; the Meherrin of Hertford County; the Occaneechi Band of the Saponi Nation of Alamance and Orange Counties; the Indians of Person County; and the Waccamaw-Siouan from Columbus and Bladen Counties;

- (2) One member each from the following Indian organizations: the Cumberland County Association for Indian People, the Guilford Native Americans, the Metrolina Native Americans, and the Triangle Native American Society;
- (3) One member representing the education community of the State;
- (4) Two members representing the business community of the State;
- (5) Two members representing the government of the State of North Carolina; and
- (6) One member representing the federal government.

Each member designated in subdivisions (1) and (2) above shall be appointed by the North Carolina Commission of Indian Affairs from two prioritized nominations submitted by the group or organization to be represented by that member. Each member designated in subdivisions (3) through (6) above shall be appointed by the North Carolina Commission of Indian Affairs from two prioritized nominations submitted by the Board of the North Carolina Indian Cultural Center, Inc. If the nominating group or organization submits only one nomination or fails to submit nominations for any reason within 30 days after the date designated for submission by the Commission, the Commission shall appoint a member of its choice to fill the requirement. The Board of the North Carolina Indian Cultural Center, Inc., shall appoint a chair from the Board membership.

Members shall serve two-year terms, except that the initial terms of:

- (1) The members representing the Coharie of Sampson and Harnett Counties, the Eastern Band of Cherokees, the Indians of Person County; and the Meherrin of Hertford County; the Occaneechi Band of the Saponi Nation of Alamance and Orange Counties; the member representing the Metrolina Native Americans; the member representing the education community of the State; one member representing the government of the State of North Carolina; and one member representing the business community shall be for one year; and
- (2) The members representing the Haliwa of Halifax, Warren, and adjoining counties, the Lumbees of Robeson, Hoke, and Scotland Counties, and the Waccamaw-Siouan from Columbus and Bladen Counties; the members representing the Cumberland County Association for Indian People and the Guilford Native Americans; one member representing the business community of the State; one member representing the government of the State of North Carolina; and one member representing the federal government shall be for two years."

**SECTION 2.** In order to provide for appropriate staggering of terms, the term of the member added pursuant to Section 1 of this act to represent the Occaneechi Band of the Saponi Nation of Alamance and Orange Counties shall run concurrently with the terms of the members whose initial terms were for one year.

**SECTION 3.** This act becomes effective July 1, 2003.

In the General Assembly read three times and ratified this the 19<sup>th</sup> day of May, 2003.

Became law upon approval of the Governor at 5:37 p.m. on the 20<sup>th</sup> day of May, 2003.



H.B. 461

Session Law 2003-56

AN ACT TO DELAY THE EFFECTIVE DATE OF THE INTERPRETER AND  
TRANSLITERATOR LICENSURE ACT.*The General Assembly of North Carolina enacts:***SECTION 1.** G.S. 90D-5(b) reads as rewritten:

"(b) Composition and Terms. – The Board shall consist of nine members who shall serve staggered terms. The initial Board members shall be selected on or before ~~January 1, 2003~~, July 1, 2003, as follows:

- (1) A member of the North Carolina Association of the Deaf (NCAD) who is deaf and familiar with the interpreting process. This member shall be appointed by the Governor and serve for a term of two years.
- (2) An interpreter who is a member of the North Carolina Registry of Interpreters for the Deaf, Inc., (NCRID) with five years experience in a community setting and who is licensed to practice as an interpreter or transliterator under this Chapter. This member shall be appointed by the Governor and serve for a term of three years.
- (3) An employee of the North Carolina Department of Health and Human Services. This member shall be appointed by the Governor, upon recommendation of the Secretary of the Department, and serve a term of three years.
- (4) An interpreter or transliterator for deaf-blind individuals who is licensed to practice as an interpreter or transliterator under this Chapter or a deaf-blind individual who is a member of the North Carolina Deaf-Blind Association and who has knowledge of the interpreting process. This member shall be appointed by the General Assembly, upon recommendation of the President Pro Tempore of the Senate, and serve for a term of three years.
- (5) A cued speech or oral transliterator licensed to practice as an interpreter or transliterator under this Chapter. This member shall be appointed by the General Assembly, upon recommendation of the President Pro Tempore of the Senate, and serve for a term of two years.
- (6) A member of Self Help for Hard of Hearing (SHHH) with knowledge of the interpreting process and deafness. This member shall be appointed by the General Assembly, upon recommendation of the President Pro Tempore of the Senate, and serve for a term of three years.
- (7) An interpreter who is a member of the North Carolina Registry of Interpreters for the Deaf, Inc., (NCRID) with five years experience in an educational setting in grades K-12 and who is licensed to practice as an interpreter or transliterator under this Chapter. This member shall be appointed by the General Assembly, upon recommendation of the Speaker of the House of Representatives, and serve for a term of two years.
- (8) A faculty member of an Interpreter Training Program (ITP), an Interpreter Preparation Program (IPP), or a qualified or professional certified instructor of the American Sign Language Teachers

Association (ASLTA). This member shall be appointed by the General Assembly, upon recommendation of the Speaker of the House of Representatives, and serve for a term of two years.

- (9) A public member. This member shall be appointed by the General Assembly, upon recommendation of the Speaker of the House of Representatives, and serve a term of two years. For purposes of this section, a public member shall not be licensed under this Chapter or have an immediate family member who is deaf or hard-of-hearing.

Upon the expiration of the terms of the initial Board members, each member shall be appointed for a term of three years and shall serve until a successor is appointed and qualified. No member may serve more than two consecutive full terms."

**SECTION 2.** Section 7 of S.L. 2002-182 reads as rewritten:

"**SECTION 7.** A person practicing interpreter or transliterator services on the effective date of this act who submits the following evidence to the Board and pays the required fee ~~within 18 months of the effective date of this act,~~ on or before December 31, 2004, shall be licensed without having to satisfy the requirements of subdivision (a)(3) of G.S. 90D-7 as enacted in Section 1 of this act:

- (1) Evidence that the person meets the qualifications in subdivisions (a)(1) and (a)(2) of G.S. 90D-7.
- (2) Evidence that the person has been actively engaged as an interpreter or transliterator in this State for at least 200 hours for each of the two years immediately preceding the effective date of this act. The evidence must be verified in writing by sources approved by the Board.
- (3) Two letters of recommendation from sources approved by the Board.
- (4) A fee of seventy-five dollars (\$75.00) for the registration. This fee shall be in lieu of the fee for a license authorized in G.S. 90D-10 of the act.

A person who obtains a license by meeting the requirements of this section must comply with the continuing education requirements set by the Board. Any practicing person who does not register with the Board ~~within 18 months of the effective date of this act~~ on or before December 31, 2004, shall be required to complete all requirements prescribed by the Board and to otherwise comply with the provisions of Chapter 90D, enacted by Section 1 of this act."

**SECTION 3.** Section 10 of S.L. 2002-182 reads as rewritten:

"**SECTION 10.** G.S. 90D-5 and G.S. 90D-6, as enacted in Section 1 of this act, and Sections 7, 8, 9, and 10 of this act are effective when the act becomes law. The remainder of the act becomes effective ~~July 1, 2003.~~ January 1, 2004."

**SECTION 4.** Notwithstanding G.S. 150B-21.1(a)(1), the North Carolina Interpreter and Transliterator Licensing Board may adopt temporary rules to implement S.L. 2002-182 until January 1, 2004.

**SECTION 5.** Sections 1 through 3 of this act become effective October 31, 2002. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 19<sup>th</sup> day of May, 2003.

Became law upon approval of the Governor at 5:38 p.m. on the 20<sup>th</sup> day of May, 2003.

## H.B. 103

## Session Law 2003-57

AN ACT TO INCREASE THE MEMBERSHIP OF THE BOARD OF TRUSTEES OF THE NORTH CAROLINA SCHOOL OF SCIENCE AND MATHEMATICS TO CONFORM TO THE INCREASE IN THE NUMBER OF CONGRESSIONAL DISTRICTS IN THIS STATE, AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 116-233(a) reads as rewritten:

"(a) There shall be a Board of Trustees of the School, which shall consist of ~~26 members~~; 27 members as follows:

- (1) ~~Twelve~~-Thirteen members who shall be appointed by the Board of Governors of The University of North Carolina, one from each congressional ~~district~~; district.
- (2) Four members without regard to residency who shall be appointed by the Board of Governors of The University of North ~~Carolina~~; Carolina.
- (3) Three members, ex officio, who shall be the chief academic officers, respectively, of constituent institutions. The Board of Governors shall in 1985 and quadrennially thereafter designate the three constituent institutions whose chief academic officers shall so serve, such designations to expire on June 30, 1989, and quadrennially ~~thereafter~~; thereafter.
- (4) The chief academic officer of a college or university in North Carolina other than a constituent institution, ex officio. The Board of Governors shall designate in 1985 and quadrennially thereafter which college or university whose chief academic officer shall so serve, such designation to expire on June 30, 1989, and quadrennially ~~thereafter~~; thereafter.
- (5) Two members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with ~~G.S. 120-121~~; G.S. 120-121.
- (6) Two members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with ~~G.S. 120-121~~; and G.S. 120-121.
- (7) Two members appointed by the Governor."

**SECTION 2.** G.S. 116-233(d) reads as rewritten:

"(d) Members appointed under subdivisions (1) or (2) of subsection (a) of this section shall serve staggered four-year terms; ~~terms expiring June 30 of odd numbered years. Eight of those terms shall expire June 30, 1993, and quadrennially thereafter, and eight of those terms shall expire June 30, 1995, and quadrennially thereafter.~~

(d1) Only an ex officio member shall be eligible to serve more than two successive terms.

(d2) Any vacancy in the membership of the Board of Trustees appointed under G.S. 116-233(a)(1) or (2) shall be reported promptly by the Secretary of the Board of Trustees to the Board of Governors of The University of North Carolina, which shall fill any such vacancy by appointment of a replacement member to serve for the balance of the unexpired term. Any vacancy in members appointed under G.S. 116-233(a)(5) or (6) shall be filled in accordance with G.S. 120-122. Any vacancy in members appointed

under G.S. 116-233(a)(7) shall be filled by the Governor for the remainder of the unexpired term. Reapportionment of congressional districts does not affect the right of any member to complete the term for which the member was appointed."

**SECTION 3.** This act becomes effective July 1, 2003. In order to maintain the current schedule of staggered terms for members appointed under G.S. 116-233(a)(1) and (2), members currently serving shall continue to serve the terms to which they were appointed, and the member appointed to the position created by this act shall be appointed to a term to end June 30, 2007.

In the General Assembly read three times and ratified this the 19<sup>th</sup> day of May, 2003.

Became law upon approval of the Governor at 5:39 p.m. on the 20<sup>th</sup> day of May, 2003.

**H.B. 80****Session Law 2003-58**

AN ACT TO REQUIRE THAT CERTAIN REPORTS BE MADE TO THE JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 122C-5 reads as rewritten:

"§ 122C-5. **Report on restraint and seclusion.**

The Secretary shall report annually on October 1 to the ~~Legislative Study Commission on Mental Health, Developmental Disabilities, and Substance Abuse Services~~ Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services on the following for the immediately preceding fiscal year:

- (1) The level of compliance of each facility with applicable State and federal laws, rules, and regulations governing the use of restraints and seclusion. The information shall indicate areas of highest and lowest levels of compliance.
- (2) The total number of facilities that reported deaths under G.S. 122C-31, the number of deaths reported by each facility, the number of deaths investigated pursuant to G.S. 122C-31, and the number found by the investigation to be related to the use of restraint or seclusion."

**SECTION 2.** G.S. 131D-42 reads as rewritten:

"§ 131D-42. **Report on use of restraint.**

The Department shall report annually on October 1 to the ~~Legislative Study Commission~~ Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services the following for the immediately preceding fiscal year:

- (1) The level of compliance of each adult care home with applicable State law and rules governing the use of physical restraint and physical hold of residents. The information shall indicate areas of highest and lowest levels of compliance.
- (2) The total number of adult care homes that reported deaths under G.S. 131D-34.1, the number of deaths reported by each facility, the number of deaths investigated pursuant to G.S. 131D-34.1, and the number

found by the investigation to be related to the adult care home's use of physical restraint or physical hold."

**SECTION 3.** G.S. 131D-10.6(10) reads as rewritten:

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

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

- ...
- (10) Report annually on October 1 to the ~~Legislative Study Commission~~ Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services the level of facility compliance with applicable State law governing the use of restraint and time-out in residential child-care facilities. The report shall also include the total number of facilities that reported deaths under this section, the number of deaths reported by each facility, the number of deaths investigated pursuant to this section, and the number found by the investigation to be related to the use of physical restraint or time-out."

**SECTION 4.** Article 27 of Chapter 120 of the General Statutes is amended by adding the following new section to read:

"§ 120-243. **Reports to Committee.**

Whenever the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, is required by law to report to the General Assembly or to any of its permanent committees or subcommittees on matters affecting mental health, developmental disabilities, and substance abuse services, the Department shall transmit a copy of the report to the cochairs of the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services."

**SECTION 5.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 19<sup>th</sup> day of May, 2003.

Became law upon approval of the Governor at 5:40 p.m. on the 20<sup>th</sup> day of May, 2003.

**H.B. 636**

**Session Law 2003-59**

AN ACT TO GIVE EFFECT TO ELECTRONIC JUDGMENT DOCKETS BY MODERNIZING LAWS REGARDING JUDGMENTS AND REESTABLISHING THE EFFECTIVE DATE OF CIVIL JUDGMENT LIENS AND THE DATE FROM WHICH INTEREST ACCRUES ON JUDGMENTS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 1-232 reads as rewritten:

"§ 1-232. **Judgment roll.**

Unless the party or his attorney furnishes a judgment ~~roll~~, roll or the documents referred to in this section are already on file, the clerk, immediately after entering the judgment, shall attach together and file the following papers which constitute the judgment roll:

- (1) In case the complaint is not answered by any defendant, the summons and complaint, or copies thereof, proof of service, and that no answer has been received, the report, if any, and a copy of the judgment.
- (2) In all other cases, the summons, pleadings, or copies thereof, and a copy of the judgment, with any verdict or report, the offer of the defendant, exceptions, case, and all orders and papers in any way involving the merits and necessarily affecting the judgment."

**SECTION 2.** G.S. 1-233 reads as rewritten:

**"§ 1-233. Docketed and indexed; held as of first day of session indexed.**

Every judgment of the superior or district court, affecting ~~the right title~~ title to real property, or requiring in whole or in part the payment of money, shall be ~~entered indexed and recorded~~ entered indexed and recorded by the clerk of said superior court on the judgment docket of the court. The docket entry must contain the file number for the case in which the judgment was entered, the names of the parties, the address, if known, of each party and against whom judgment is rendered, ~~and the relief granted, date of judgment, and the date, hour hour, and minute of docketing; and the the entry of judgment under G.S. 1A-1, Rule 58,~~ and the date, hour, and minute of the indexing of the judgment. The clerk shall keep a cross-index of the whole, with the dates and file numbers thereof; however, error or omission in the entry of the address or addresses shall in no way affect the validity, finality or priority of the judgment docketed. ~~In all cases affecting the title to real property the clerk shall enter upon the judgment docket the number and page of the minute docket where the judgment is recorded, and if the judgment does not contain particular description of the lands, but refers to a description contained in the pleadings, the clerk shall enter upon the minute docket, immediately following the judgment, the description so referred to.~~

~~All judgments rendered in any county by the superior or district court, during a session of the court, and docketed during the same session, or within 10 days thereafter, are held and deemed to have been rendered and docketed on the first day of said session, for the purpose only of establishing equality of priority as among such judgments."~~

**SECTION 3.** G.S. 1-234 reads as rewritten:

**"§ 1-234. Where and how docketed; lien.**

Upon ~~filing a judgment roll upon a judgment~~ the entry of a judgment under G.S. 1A-1, Rule 58, affecting the title of real property, or directing in whole or in part the payment of money, ~~it shall be docketed~~ the clerk of superior court shall index and record the judgment on the judgment docket of the court of the county where the judgment ~~roll~~ was ~~filed, and entered~~. The judgment may be docketed on the judgment docket of the court of any other county upon the filing with the clerk thereof of a transcript of the original docket, and docket. The judgment lien is effective as against third parties from and after the indexing of the judgment as provided in G.S. 1-233. The judgment is a lien on the real property in the county where the same is docketed of every person against whom any such judgment is rendered, and which he has at the time of the docketing thereof in the county in which such real property is situated, or which he acquires at any time thereafter, for 10 years from the date of the rendition entry of the judgment. judgment under G.S. 1A-1, Rule 58, in the county where the judgment was originally entered. But the time during which the party recovering or owning such judgment shall be, or shall have been, restrained from proceeding thereon by an order of injunction, or other order, or by the operation of any appeal, or by a statutory prohibition, does not constitute any part of the 10 years aforesaid, as against the

defendant in such judgment, or the party obtaining such orders or making such appeal, or any other person who is not a purchaser, creditor or mortgagee in good faith.

A judgment docketed pursuant to G.S. 15A-1340.38 shall constitute a lien against the property of a defendant as provided for under this section."

**SECTION 4.** G.S. 24-5 reads as rewritten:

**"§ 24-5. Interest on judgments.**

(a) **Actions on Contracts.** – In an action for breach of contract, except an action on a penal bond, the amount awarded on the contract bears interest from the date of breach. The fact finder in an action for breach of contract shall distinguish the principal from the interest in the award, and the judgment shall provide that the principal amount bears interest until the judgment is satisfied. If the parties have agreed in the contract that the contract rate shall apply after judgment, then interest on an award in a contract action shall be at the contract rate after judgment; otherwise it shall be at the legal rate. On awards in actions on contracts pursuant to which credit was extended for personal, family, household, or agricultural purposes, however, interest shall be at the lower of the legal rate or the contract rate. For purposes of this section, "after judgment" means after the date of entry of judgment under G.S. 1A-1, Rule 58.

(a1) **Actions on Penal Bonds.** – In an action on a penal bond, the amount of the judgment, except the costs, shall bear interest at the legal rate from the date of ~~docketing of judgment~~ entry of judgment under G.S. 1A-1, Rule 58, until the judgment is satisfied.

(b) **Other Actions.** – In an action other than contract, any portion of a money judgment designated by the fact finder as compensatory damages bears interest from the date the action is commenced until the judgment is satisfied. Any other portion of a money judgment in an action other than contract, except the costs, bears interest from the date of ~~entry of judgment~~ entry of judgment under G.S. 1A-1, Rule 58, until the judgment is satisfied. Interest on an award in an action other than contract shall be at the legal rate."

**SECTION 5.** This act becomes effective September 1, 2003, and applies to all judgments entered, indexed, and docketed on or after that date.

In the General Assembly read three times and ratified this the 15<sup>th</sup> day of May, 2003.

Became law upon approval of the Governor at 5:43 p.m. on the 20<sup>th</sup> day of May, 2003.

**H.B. 475**

**Session Law 2003-60**

**AN ACT TO AMEND THE STATUTE PERTAINING TO REGISTRATION OF BIRTH AND DEATH CERTIFICATES.**

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 130A-97 reads as rewritten:

**"§ 130A-97. Duties of local registrars.**

The local registrar shall:

- (1) Administer and enforce provisions of this Article and the rules, and immediately report any violation to the State Registrar;
- (2) Furnish certificate forms and instructions supplied by the State Registrar to persons who require them;
- (3) Examine each certificate when submitted to determine if it has been completed in accordance with the provisions of this Article and the

rules. If a certificate is incomplete or unsatisfactory, the responsible person shall be notified and required to furnish the necessary information. All birth and death certificates shall be typed or written legibly in permanent ~~black or blue-black ink~~; black, blue-black, or blue ink;

- (4) Enter the date on which a certificate is received and sign as local registrar;
- (5) Transmit to the register of deeds of the county a copy of each certificate registered within seven days of receipt of a birth or death certificate. The copy transmitted shall include the race of the father and mother if that information is contained on the State copy of the certificate of live birth. Copies transmitted may be on blanks furnished by the State Registrar or may be photocopies made in a manner approved by the register of deeds. The local registrar may also keep a copy of each certificate for no more than two years;
- (6) On the fifth day of each month or more often, if requested, send to the State Registrar all original certificates registered during the preceding month; and
- (7) Maintain records, make reports and perform other duties required by the State Registrar."

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

In the General Assembly read three times and ratified this the 15<sup>th</sup> day of May, 2003.

Became law upon approval of the Governor at 5:44 p.m. on the 20<sup>th</sup> day of May, 2003.

## H.B. 952

## Session Law 2003-61

AN ACT TO MAKE A CLARIFYING CHANGE TO THE LAWS RELATING TO THE CONFIRMATION OF AN ARBITRATION AWARD UNDER THE FAMILY LAW ARBITRATION ACT.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 50-53 reads as rewritten:

"§ 50-53. **Confirmation of award.**

~~Upon~~Unless the parties agree otherwise, upon a party's application, the court shall confirm an award, unless within time limits imposed under G.S. 50-54 through G.S. 50-56 grounds are urged for vacating or modifying or correcting the award, in which case the court shall proceed as provided in G.S. 50-54 through G.S. 50-56. The court may award costs, as provided in G.S. 50-51(f), of the application and subsequent proceedings."

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

In the General Assembly read three times and ratified this the 15<sup>th</sup> day of May, 2003.

Became law upon approval of the Governor at 5:44 p.m. on the 20<sup>th</sup> day of May, 2003.



## H.B. 126

## Session Law 2003-62

## AN ACT TO CLARIFY THE LAW GOVERNING EVIDENCE ADMISSIBLE IN CERTAIN JUVENILE HEARINGS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 7B-901 reads as rewritten:

**"§ 7B-901. Dispositional hearing.**

The dispositional hearing may be informal and the court may consider written reports or other evidence concerning the needs of the juvenile. The juvenile and the juvenile's parent, guardian, or custodian shall have an opportunity to present evidence, and they may advise the court concerning the disposition they believe to be in the best interests of the juvenile. The court may consider any evidence, including hearsay evidence as defined in G.S. 8C-1, Rule 801, that the court finds to be relevant, reliable, and necessary to determine the needs of the juvenile and the most appropriate disposition. The court may exclude the public from the hearing unless the juvenile moves that the hearing be open, which motion shall be granted."

**SECTION 2.** G.S. 7B-906(c) reads as rewritten:

"(c) At every review hearing, the court shall consider information from the parent, the juvenile, the guardian, any foster parent, relative, or preadoptive parent providing care for the child, the custodian or agency with custody, the guardian ad litem, and any other person or agency which will aid in its review. The court may consider any evidence, including hearsay evidence as defined in G.S. 8C-1, Rule 801, that the court finds to be relevant, reliable, and necessary to determine the needs of the juvenile and the most appropriate disposition.

In each case the court shall consider the following criteria and make written findings regarding those that are relevant:

- (1) Services which have been offered to reunite the family, or whether efforts to reunite the family clearly would be futile or inconsistent with the juvenile's safety and need for a safe, permanent home within a reasonable period of time.
- (2) Where the juvenile's return home is unlikely, the efforts which have been made to evaluate or plan for other methods of care.
- (3) Goals of the foster care placement and the appropriateness of the foster care plan.
- (4) A new foster care plan, if continuation of care is sought, that addresses the role the current foster parent will play in the planning for the juvenile.
- (5) Reports on the placements the juvenile has had and any services offered to the juvenile and the parent, guardian, custodian, or caretaker.
- (6) An appropriate visitation plan.
- (7) If the juvenile is 16 or 17 years of age, a report on an independent living assessment of the juvenile and, if appropriate, an independent living plan developed for the juvenile.
- (8) When and if termination of parental rights should be considered.
- (9) Any other criteria the court deems necessary."

**SECTION 3.** G.S. 7B-907(b) reads as rewritten:

"(b) At any permanency planning review, the court shall consider information from the parent, the juvenile, the guardian, any foster parent, relative or preadoptive parent providing care for the child, the custodian or agency with custody, the guardian ad litem, and any other person or agency which will aid it in the court's review. The court may consider any evidence, including hearsay evidence as defined in G.S. 8C-1, Rule 801, that the court finds to be relevant, reliable, and necessary to determine the needs of the juvenile and the most appropriate disposition. At the conclusion of the hearing, if the juvenile is not returned home, the court shall consider the following criteria and make written findings regarding those that are relevant:

- (1) Whether it is possible for the juvenile to be returned home immediately or within the next six months, and if not, why it is not in the juvenile's best interests to return home;
- (2) Where the juvenile's return home is unlikely within six months, whether legal guardianship or custody with a relative or some other suitable person should be established, and if so, the rights and responsibilities which should remain with the parents;
- (3) Where the juvenile's return home is unlikely within six months, whether adoption should be pursued and if so, any barriers to the juvenile's adoption;
- (4) Where the juvenile's return home is unlikely within six months, whether the juvenile should remain in the current placement or be placed in another permanent living arrangement and why;
- (5) Whether the county department of social services has since the initial permanency plan hearing made reasonable efforts to implement the permanent plan for the juvenile;
- (6) Any other criteria the court deems necessary."

**SECTION 4.** G.S. 7B-908(a) reads as rewritten:

"(a) The purpose of each placement review is to ensure that every reasonable effort is being made to provide for a permanent placement plan for the juvenile who has been placed in the custody of a county director or licensed child-placing agency, which is consistent with the juvenile's best interests. At each review hearing the court may consider information from the department of social services, the licensed child-placing agency, the guardian ad litem, the child, any foster parent, relative, or preadoptive parent providing care for the child, and any other person or agency the court determines is likely to aid in the review. The court may consider any evidence, including hearsay evidence as defined in G.S. 8C-1, Rule 801, that the court finds to be relevant, reliable, and necessary to determine the needs of the juvenile and the most appropriate disposition."

**SECTION 5.** G.S. 7B-2501(a) reads as rewritten:

"(a) The dispositional hearing may be informal, and the court may consider written reports or other evidence concerning the needs of the juvenile. The court may consider any evidence, including hearsay evidence as defined in G.S. 8C-1, Rule 801, that the court finds to be relevant, reliable, and necessary to determine the needs of the juvenile and the most appropriate disposition."

**SECTION 6.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 15<sup>th</sup> day of May, 2003.

Became law upon approval of the Governor at 5:45 p.m. on the 20<sup>th</sup> day of May, 2003.

## S.B. 658

## Session Law 2003-63

AN ACT TO RESOLVE CONFLICTING STATUTES; TO AMEND THE APPELLATE PROCEDURE BEFORE THE STATE BANKING COMMISSION; AND TO AUTHORIZE THE COMMISSIONER OF BANKS TO APPOINT A HEARING OFFICER.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 7A-29(a) reads as rewritten:

"(a) From any final order or decision of the North Carolina Utilities Commission not governed by subsection (b) of this section, the Department of Health and Human Services under G.S. 131E-188(b), ~~the Commissioner of Banks under Articles 17, 18, 18A, and 21 of Chapter 53 of the General Statutes, the Administrator of Savings and Loans under Article 3A of Chapter 54B of the General Statutes,~~ the North Carolina Industrial Commission, the North Carolina State Bar under G.S. 84-28, the Property Tax Commission under G.S. 105-290 and G.S. 105-342, the Commissioner of Insurance under G.S. 58-2-80, or the Secretary of Environment and Natural Resources under G.S. 104E-6.2 or G.S. 130A-293, appeal as of right lies directly to the Court of Appeals."

**SECTION 2.** G.S. 53-92(d) reads as rewritten:

"(d) The Banking Commission is hereby vested with full power and authority to supervise, direct and review the exercise by the Commissioner of Banks of all powers, duties, and functions now vested in or exercised by the Commissioner of Banks under the banking laws of this ~~State; any State.~~ Upon an appeal to the Banking Commission by any party from an order entered by the Commissioner of Banks following an administrative hearing pursuant to Article 3A of Chapter 150B of the General Statutes, the Administrative Procedure Act, the chairman of the Commission may appoint an appellate review panel of not less than five members to review the record on appeal, hear oral arguments, and make a recommended decision to the Commission. Unless another time period for appeals is provided by this Chapter, any party to an order by the Commissioner of Banks may, within 20 days after the order and upon written notice to the Commissioner, appeal the Commissioner's order to the Banking Commission for review. Upon notice of an appeal, the Commissioner of Banks shall, within 30 days of the notice, certify to the Commission the record on appeal. Any party to a proceeding before the Banking Commission may, within 20 days after final order of said Commission and by written notice to the Commissioner of Banks, appeal to the Superior Court of Wake County for a final determination of any question of law which may be involved. The cause shall be entitled "State of North Carolina on Relation of the Banking Commission against (here insert name of appellant)." It shall be placed on the civil issue docket of such court and shall have precedence over other civil actions. In the event of an appeal the Commissioner shall certify the record to the Clerk of Superior Court of Wake County within 15 days thereafter."

**SECTION 3.** G.S. 53-93 reads as rewritten:

**"§ 53-93. Powers and duties of Commissioner.**

The Commissioner of Banks shall have the powers, duties and functions herein given, and in addition thereto such other powers and rights as may be necessary or incident to the proper discharge of ~~his~~ the Commissioner's duties. The Commissioner may appoint and assign a member of the staff of the Office of the Commissioner of Banks to preside at administrative hearings required by Article 3A of Chapter 150B of

the General Statutes, the Administrative Procedure Act, and make a recommended decision to the Commissioner."

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

In the General Assembly read three times and ratified this the 15<sup>th</sup> day of May, 2003.

Became law upon approval of the Governor at 5:46 p.m. on the 20<sup>th</sup> day of May, 2003.

**S.B. 765****Session Law 2003-64**

AN ACT TO LIMIT THE AREA OF WESTERN CORE SOUND THAT MAY BE LEASED FOR THE CULTIVATION OF SHELLFISH AND TO DIRECT THE DIVISION OF MARINE FISHERIES TO REPORT TO THE JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE ON THE IMPLEMENTATION OF THIS ACT.

*The General Assembly of North Carolina enacts:*

**SECTION 1.(a)** For purposes of this section:

- (1) "Western Core Sound" is that part of Core Sound bounded by a line beginning at a point on Cedar Island at 35°00'39"N - 76°17'48"W, thence 109°(M) to a point in Core Sound 35°00'00"N - 76°12'42"W, thence 229°(M) to Marker No. 37 located 0.9 miles off Bells Point at 34°43'30"N - 76°29'00"W, thence 207°(M) to the Cape Lookout Lighthouse at 34°37'24"N - 76°31'30"W, thence 12°(M) to a point at Marshallberg at 34°43'07"N - 76°31'12"W, thence following the shoreline in a northerly direction to the point of beginning except that the highway bridges at Salters Creek, Thorofare Bay, and the Rumley Bay ditch shall be considered shoreline.
- (2) "Lease" means a shellfish cultivation lease granted pursuant to G.S. 113-202.

**SECTION 1.(b)** It is the intent of the General Assembly to permanently limit the area within Western Core Sound that may be leased for the cultivation of shellfish to the area that is subject to a lease on June 30, 2003.

**SECTION 1.(c)** Notwithstanding G.S. 113-202, the Secretary of Environment and Natural Resources may grant a new lease or renew an existing lease in an area of Western Core Sound only if the area is subject to a lease on June 30, 2003.

**SECTION 1.(d)** This section shall not prohibit the transfer of a lease as provided in G.S. 113-202(k).

**SECTION 2.** The Division of Marine Fisheries in the Department of Environment and Natural Resources shall report to the Joint Legislative Commission on Seafood and Aquaculture on or before January 1, 2004, on the implementation of this act.

**SECTION 3.** Section 1 of this act becomes effective June 30, 2003. Sections 2 and 3 of this act are effective when this act becomes law.

In the General Assembly read three times and ratified this the 15<sup>th</sup> day of May, 2003.

Became law upon approval of the Governor at 5:47 p.m. on the 20<sup>th</sup> day of May, 2003.

## S.B. 557

## Session Law 2003-65

## AN ACT REQUIRING A TAXICAB DRIVER TO PASS A CONTROLLED SUBSTANCE EXAMINATION BEFORE BEING LICENSED AS A TAXICAB DRIVER IN THIS STATE.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 160A-304(a) reads as rewritten:

"(a) A city may by ordinance license and regulate all vehicles operated for hire in the city. The ordinance may require that the drivers and operators of taxicabs engaged in the business of transporting passengers for hire over the public streets shall obtain a license or permit from the city; provided, however, that the license or permit fee for taxicab drivers shall not exceed fifteen dollars (\$15.00). As a condition of licensure, the city may require an applicant for licensure to pass a controlled substance examination. The ordinances may also specify the types of taxicab services ~~which~~ that are legal in the municipality; provided, that in all cases shared-ride services as well as exclusive-ride services shall be legal. Shared-ride service is defined as a taxi service in which two or more persons with either different origins or with different destinations, or both, occupy a taxicab at one time. Exclusive-ride service is defined as a taxi service in which the first passenger or party requests exclusive use of the taxicab. In the event the applicant is to be subjected to a national criminal history background check, the ordinance shall specifically authorize the use of FBI records. The ordinance shall require any applicant who is subjected to a national criminal history background check to be fingerprinted.

The Department of Justice may provide a criminal record check to the city for a person who has applied for a license or permit through the city. The city shall provide to the Department of Justice, along with the request, the fingerprints of the applicant, any additional information required by the Department of Justice, and a form signed by the applicant consenting to the check of the criminal record and to the use of the fingerprints and other identifying information required by the State or national repositories. The applicant's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of the fingerprints to the Federal Bureau of Investigation for a national criminal history check. The city shall keep all information pursuant to this subsection privileged, in accordance with applicable State law and federal guidelines, and the information shall be confidential and shall not be a public record under Chapter 132 of the General Statutes.

The Department of Justice may charge each applicant a fee for conducting the checks of criminal history records authorized by this subsection.

The following factors shall be deemed sufficient grounds for refusing to issue a permit or for revoking a permit already issued:

- (1) Conviction of a felony against this State, or conviction of any offense against another state which would have been a felony if committed in this State;
- (2) Violation of any federal or State law relating to the use, possession, or sale of alcoholic beverages or narcotic or barbiturate drugs;
- (3) Addiction to or habitual use of alcoholic beverages or narcotic or barbiturate drugs;
- (4) Violation of any federal or State law relating to prostitution;
- (5) Noncitizenship in the United States;

- (6) Habitual violation of traffic laws or ordinances.

The ordinance may also require operators and drivers of taxicabs to display prominently in each taxicab, so as to be visible to the passengers, the city taxi permit, the schedule of fares, a photograph of the driver, and any other identifying matter that the council may deem proper and advisable. The ordinance may also establish rates that may be charged by taxicab operators, may limit the number of taxis that may operate in the city, and may grant franchises to taxicab operators on any terms that the council may deem advisable."

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

In the General Assembly read three times and ratified this the 15<sup>th</sup> day of May, 2003.

Became law upon approval of the Governor at 5:48 p.m. on the 20<sup>th</sup> day of May, 2003.

## H.B. 1065

## Session Law 2003-66

AN ACT TO MODIFY THE AUTHORITY AND PROCEDURE FOR A REDEVELOPMENT COMMISSION TO CONVEY CERTAIN PROPERTY IN A DESIGNATED REDEVELOPMENT AREA.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 160A-514(c) reads as rewritten:

"(c) A commission may sell, exchange, or otherwise transfer the fee or any lesser interest in real property in a redevelopment project area to any redeveloper for any public or private use that accords with the redevelopment plan, subject to such covenants, conditions and restrictions as the commission may deem to be in the public interest and in furtherance of the purposes of this Article. In the sale, exchange, or transfer of property, the commission shall ~~follow the exercise the authority and procedure set out in G.S. 160A-268, G.S. 160A-269, G.S. 160A-270 or G.S. 160A-271~~ 160A-270, 160A-271, or 160A-279 for the disposition of property by a city council. Provided, however, that all sales, exchanges, or other transfers of real property from July 9, 1985, to December 31, 1987, in accordance with the provisions of this section prior to its revision on July 9, 1985, shall be and are valid in all respects."

**SECTION 2.** G.S. 160A-514(e) reads as rewritten:

"(e) In carrying out a redevelopment project, the commission may:

- (1) With or without consideration and at private sale convey to the municipality in which the project is located such real property as, in accordance with the redevelopment plan, is to be laid out into streets, alleys, and public ~~ways;~~ ways.
- (2) With or without consideration, convey at private sale, grant, or dedicate easements and rights-of-way for public utilities, sewers, streets and other similar facilities, in accordance with the redevelopment ~~plan; and plan.~~
- (3) With or without consideration and at private sale convey to the municipality, county or other appropriate public body such real property as, in accordance with the redevelopment plan, is to be used for parks, schools, public buildings, facilities or other public purposes.
- (4) ~~After~~ In addition to other authority contained in this section, after a public hearing advertised in accordance with the provisions of G.S.

160A-513(e), and subject to the approval of the governing body of the municipality, convey to a nonprofit association or corporation organized and operated exclusively for educational, scientific, literary, cultural, charitable or religious purposes, no part of the net earnings of which inure to the benefit of any private shareholder or individual, such real property as, in accordance with the redevelopment plan, is to be used for the purposes of such associations or corporations. Such conveyance shall be for such consideration as may be agreed upon by the commission and the association or corporation, which shall not be less than the fair value of the property agreed upon by a committee of three professional real estate appraisers currently practicing in the State, which committee shall be appointed by the commission. All conveyances made under the authority of this subsection shall contain restrictive covenants limiting the use of property so conveyed to the purposes for which the conveyance is made."

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

In the General Assembly read three times and ratified this the 15<sup>th</sup> day of May, 2003.

Became law upon approval of the Governor at 5:48 p.m. on the 20<sup>th</sup> day of May, 2003.

**S.B. 326**

**Session Law 2003-67**

AN ACT TO CLARIFY THE LAW ON CHANGING THE FORMS OF BUSINESSES FOR UNEMPLOYMENT INSURANCE TAX PURPOSES AND TO INCREASE PENALTIES, SO AS TO DETER THE PRACTICE OF STATE UNEMPLOYMENT TAX AVOIDANCE (SUTA DUMPING).

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 96-9(c)(4) is amended by adding a new sub-subdivision to read:

"a1. A new employing unit shall not be assigned a discrete employer number when there is an acquisition or change in the form or organization of an existing business enterprise, or severable portion thereof, and there is a continuity of control of the business enterprise. That new employing unit shall continue to be the same employer for the purposes of this Chapter as before the acquisition or change in form. As used in this sub-subdivision:

1. 'Control of the business enterprise' may occur by means of ownership of the organization conducting the business enterprise, ownership of assets necessary to conduct the business enterprise, security arrangements or lease arrangements covering assets necessary to conduct the business enterprise, or a contract when the ownership, stated arrangements, or contract provide for or allow direction of the internal affairs or conduct of the business enterprise.

2. A 'continuity of control' will exist if one or more persons, entities, or other organizations controlling the business enterprise remain in control of the business enterprise after an acquisition or change in form. Evidence of continuity of control shall include, but not be limited to, changes of an individual proprietorship to a corporation, partnership, limited liability company, association, or estate; a partnership to an individual proprietorship, corporation, limited liability company, association, estate, or the addition, deletion, or change of partners; a limited liability company to an individual proprietorship, partnership, corporation, association, estate, or to another limited liability company; a corporation to an individual proprietorship, partnership, limited liability company, association, estate, or to another corporation or from any form to another form.

This sub-subdivision shall not modify the provisions of G.S. 96-10(d) – Collections of Contributions Upon Transfer or Cessation of Business."

**SECTION 2.** G.S. 96-18 is amended by adding a new subsection to read:

"(b1) Except as provided in this subsection, the penalties and other provisions in subdivisions (6), (7), (9a), and (11) of G.S. 105-236 apply to unemployment insurance contributions under this Chapter to the same extent that they apply to taxes as defined in G.S. 105-228.90(b)(7). The Commission has the same powers under those subdivisions with respect to unemployment insurance contributions as does the Secretary of Revenue with respect to taxes as defined in G.S. 105-228.90(b)(7).

G.S. 105-236(9a) applies to a 'contribution tax return preparer' to the same extent as it applies to an income tax preparer. As used in this subsection, a 'contribution tax return preparer' is a person who prepares for compensation, or who employs one or more persons to prepare for compensation, any return of tax imposed by this Chapter or any claim for refund of tax imposed by this Chapter. For purposes of this definition, the completion of a substantial portion of a return or claim for refund is treated as the preparation of the return or claim for refund. The term does not include a person merely because the person (i) furnishes typing, reproducing, or other mechanical assistance, (ii) prepares a return or claim for refund of the employer, or an officer or employee of the employer, by whom the person is regularly and continuously employed, (iii) prepares as a fiduciary a return or claim for refund for any person, or (iv) represents a taxpayer in a hearing regarding a proposed assessment.

The penalty in G.S. 105-236(7) applies with respect to unemployment insurance contributions under this Chapter only when one of the following circumstances exist in connection with the violation:

- (1) Any employing units employing more than 10 employees.
- (2) A contribution of more than two thousand dollars (\$2,000) has not been paid.
- (3) An experience rating account balance is more than five thousand dollars (\$5,000) overdrawn."



**SECTION 3.** Section 2 of this act becomes effective December 1, 2003. The remainder of this act is effective when this act becomes law.

In the General Assembly read three times and ratified this the 15<sup>th</sup> day of May, 2003.

Became law upon approval of the Governor at 5:49 p.m. on the 20<sup>th</sup> day of May, 2003.

**S.B. 295**

**Session Law 2003-68**

**AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE SPECIAL REGISTRATION PLATES FOR PARAMEDICS AND THE NORTH CAROLINA COASTAL FEDERATION.**

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 20-79.4(b) is amended by adding the following new subdivisions to read:

"(b) Types. – The Division shall issue the following types of special registration plates:

...

(28d) NC Coastal Federation. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear a phrase used by the North Carolina Coastal Federation and an image that depicts the coastal area of the State.

...

(29d) Paramedics. – Issuable to an emergency medical technician-paramedic, as defined in G.S. 131E-155. The plate shall bear the Star of Life logo and the phrase "Professional Paramedic". The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate."

**SECTION 2.** G.S. 20-79.7(a) reads as rewritten:

"(a) Fees. – Upon request, the Division shall provide and issue free of charge one registration plate to a recipient of the Congressional Medal of Honor, a 100% disabled veteran, and an ex-prisoner of war. All other special registration plates, including additional Congressional Medal of Honor, 100% Disabled Veteran, and Ex-Prisoner of War plates, are subject to the regular motor vehicle registration fee in G.S. 20-87 or G.S. 20-88 plus an additional fee in the following amount:

<u>Special Plate</u>	<u>Additional Fee Amount</u>
Historical Attraction	\$30.00
State Attraction	\$30.00
Collegiate Insignia	\$25.00
Goodness Grows	\$25.00
Kids First	\$25.00
Olympic Games	\$25.00
NC Agribusiness	\$25.00
<u>NC Coastal Federation</u>	<u>\$25.00</u>
Special Olympics	\$25.00
The V Foundation for Cancer Research Division	\$25.00
University Health Systems of Eastern Carolina	\$25.00
Animal Lovers	\$20.00

Audubon North Carolina	\$20.00
Ducks Unlimited	\$20.00
Harley Owners' Group	\$20.00
First in Forestry	\$20.00
Litter Prevention	\$20.00
March of Dimes	\$20.00
Omega Psi Phi Fraternity	\$20.00
Rocky Mountain Elk Foundation	\$25.00
Save the Sea Turtles	\$20.00
Scenic Rivers	\$20.00
School Technology	\$20.00
Soil and Water Conservation	\$20.00
Special Forces Association	\$20.00
Support Public Schools	\$20.00
Wildlife Resources	\$20.00
Personalized	\$20.00
Active Member of the National Guard	None
100% Disabled Veteran	None
Ex-Prisoner of War	None
Legion of Valor	None
Purple Heart Recipient	None
Silver Star Recipient	None
All Other Special Plates	\$10.00."

**SECTION 3.** G.S. 20-79.7(b) reads as rewritten:

"(b) Distribution of Fees. – The Special Registration Plate Account and the Collegiate and Cultural Attraction Plate Account are established within the Highway Fund. The Division must credit the additional fee imposed for the special registration plates listed in subsection (a) among the Special Registration Plate Account (SRPA), the Collegiate and Cultural Attraction Plate Account (CCAPA), and the Natural Heritage Trust Fund (NHTF), which is established under G.S. 113-77.7, as follows:

<u>Special Plate</u>	<u>SRPA</u>	<u>CCAPA</u>	<u>NHTF</u>
Animal Lovers	\$10	\$10	0
Audubon North Carolina	\$10	\$10	0
Ducks Unlimited	\$10	\$10	0
First in Forestry	\$10	0	\$10
Goodness Grows	\$10	\$15	0
Harley Owners' Group	\$10	\$10	0
Historical Attraction	\$10	\$20	0
In-State Collegiate Insignia	\$10	\$15	0
Kids First	\$10	\$15	0
Litter Prevention	\$10	\$10	0
March of Dimes	\$10	\$10	0
NC Agribusiness	\$10	\$15	0
<u>NC Coastal Federation</u>	<u>\$10</u>	<u>\$15</u>	<u>0</u>
Olympic Games	\$10	\$15	0
Omega Psi Phi Fraternity	\$10	\$10	0
Out-of-state Collegiate Insignia	\$10	0	\$15
Personalized	\$10	0	\$10
Rocky Mountain Elk Foundation	\$10	\$15	0

Save the Sea Turtles	\$10	\$10	0
Scenic Rivers	\$10	\$10	0
School Technology	\$10	\$10	0
Soil and Water Conservation	\$10	\$10	0
Special Forces Association	\$10	\$10	0
Special Olympics	\$10	\$10	0
State Attraction	\$10	\$20	0
Support Public Schools	\$10	\$10	0
The V Foundation for Cancer Research	\$10	\$15	0
University Health Systems of Eastern Carolina	\$10	\$15	0
Wildlife Resources	\$10	\$10	0
All other Special Plates	\$10	0	0."

**SECTION 4.** G.S. 20-81.12 is amended by adding the following new subsection to read:

"(b25) NC Coastal Federation. – The Division must receive 300 or more applications for a NC Coastal Federation plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of NC Coastal Federation plates to the North Carolina Coastal Federation, Inc."

**SECTION 5.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 15<sup>th</sup> day of May, 2003.

Became law upon approval of the Governor at 5:50 p.m. on the 20<sup>th</sup> day of May, 2003.

### S.B. 39

### Session Law 2003-69

AN ACT TO AUTHORIZE CERTAIN CHARTER SCHOOLS TO ELECT TO PARTICIPATE IN THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM AND THE NORTH CAROLINA TEACHERS' AND STATE EMPLOYEES' COMPREHENSIVE MAJOR MEDICAL PLAN; AND TO ASSESS INTEREST ON PREMIUM PAYMENTS NOT REMITTED BY CHARTER SCHOOL EMPLOYING UNITS IN A TIMELY MANNER.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Notwithstanding the time limitations contained in G.S. 135-5.3(b) and G.S. 135-40.3A(b), the board of directors of any charter school that received State Board of Education approval under G.S. 115C-238.29D on or after January 1, 2002, and the board of directors of River Mill Academy in Alamance County may elect to become a participating employer in the Teachers' and State Employees' Retirement System in accordance with Article 1 of Chapter 135 of the General Statutes and may also elect to become a participating employing unit in the North Carolina Teachers' and State Employees' Comprehensive Major Medical Plan in accordance with Article 3 of Chapter 135. The elections authorized by this section shall be made no later than 30 days after the effective date of this act and shall be made in accordance with all other requirements of G.S. 135-5.3 and G.S. 135-40.3A.

**SECTION 2.** G.S. 135-39.6A reads as rewritten:**"§ 135-39.6A. Premiums set.**

(a) The Executive Administrator and Board of Trustees shall, from time to time, establish premium rates for the Comprehensive Major Medical Plan except as they may be established by the General Assembly in the Current Operations Appropriations Act, and establish regulations for payment of the premiums. Premium rates shall be established for coverages where Medicare is the primary payer of health benefits separate and apart from the rates established for coverages where Medicare is not the primary payer of health benefits.

(b) The Executive Administrator and Board of Trustees shall establish separate premium rates for the long-term care benefits provided by Part 4 of this Article if the benefits are administered on a self-insured basis.

(c) The Executive Administrator and Board of Trustees shall establish premium rates for benefits provided under Part 5 of this Article. The Department of Health and Human Services shall, from State and federal appropriations and from any other funds made available for the Health Insurance Program for Children established under Part 8 of Article 2 of Chapter 108A of the General Statutes, make payments to the North Carolina Teachers' and State Employees' Comprehensive Major Medical Plan as determined by the Plan for its administration, claims processing, and other services authorized to provide coverage for acute medical care for children eligible for benefits provided under Part 5 of this Article.

(d) In setting premiums for firemen, rescue squad workers, and members of the national guard, and their eligible dependents, the Executive Administrator and Board of Trustees shall establish rates separate from those affecting other members of the Plan. These separate premium rates shall include rate factors for incurred but unreported claim costs, for the effects of adverse selection from voluntary participation in the Plan, and for any other actuarially determined measures needed to protect the financial integrity of the Plan for the benefit of its served employees, retired employees, and their eligible dependents.

(e) The total amount of premiums due the Plan from charter schools as employing units, including amounts withheld from the compensation of Plan members, that is not remitted to the Plan by the fifteenth day of the month following the due date of remittance shall be assessed interest of one and one-half percent (1 1/2%) of the amount due the Plan, per month or fraction thereof, beginning with the sixteenth day of the month following the due date of the remittance. The interest authorized by this section shall be assessed until the premium payment plus the accrued interest amount is remitted to the Plan. The remittance of premium payments under this section shall be presumed to have been made if the remittance is postmarked in the United States mail on a date not later than the fifteenth day of the month following the due date of the remittance."

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

In the General Assembly read three times and ratified this the 14<sup>th</sup> day of May, 2003.

Became law upon approval of the Governor at 5:55 p.m. on the 20<sup>th</sup> day of May, 2003.

**S.B. 422****Session Law 2003-70**

AN ACT TO AMEND THE ADVANCE HEALTH CARE DIRECTIVE REGISTRY LAW TO EXEMPT FROM NOTARY REQUIREMENTS ANATOMICAL GIFT INSTRUMENTS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 130A-466 reads as rewritten:

"§ **130A-466. Filing requirements.**

(a) A person may submit any of the following documents and the revocations of these documents to the Secretary of State for filing in the Advance Health Care Directive Registry established pursuant to this Article:

- (1) A health care power of attorney under Article 3 of Chapter 32A of the General Statutes.
- (2) A declaration of a desire for a natural death under Article 23 of Chapter 90 of the General Statutes.
- (3) An advance instruction for mental health treatment under Part 2 of Article 3 of Chapter 122C of the General Statutes.
- (4) A declaration of an anatomical gift under Part 3 of Article 16 of Chapter 130A of the General Statutes.

(b) Any document and any revocation of a document submitted for filing in the registry shall be notarized regardless of whether notarization is required for its validity. This subsection does not apply to the document described in subdivision (a)(4) of this section.

(c) The document may be submitted for filing only by the person who executed the document.

(d) The person who submits the document shall supply a return address.

(e) The document shall be accompanied by any fee required by this Article."

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

In the General Assembly read three times and ratified this the 14<sup>th</sup> day of May, 2003.

Became law upon approval of the Governor at 5:57 p.m. on the 20<sup>th</sup> day of May, 2003.

**S.B. 731****Session Law 2003-71**

AN ACT TO INCREASE THE SIZE OF PACKAGES OF FERTILIZER THAT MAY BE SOLD WITH NUTRIENT GUARANTEES STATED IN FRACTIONAL PERCENTAGES AND TO AUTHORIZE THE BOARD OF AGRICULTURE TO ADOPT TEMPORARY RULES IN ORDER TO ESTABLISH RENTAL RATES FOR THE USE OF FACILITIES OPERATED BY THE DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 106-659 reads as rewritten:

"§ **106-659. Minimum plant food content.**

~~Superphosphate~~ Except as provided in this section, superphosphate containing less than eighteen percent (18%) available phosphate, or any mixed fertilizer in which the guarantees for the nitrogen, available phosphate, or soluble potash are in fractional

percentages shall not be offered for sale, sold, or distributed in this State; ~~provided, however, packages~~ State. Packages of 16-32 fluid ounces or less when in liquid form, or ~~16-32~~ ounces or less avoirdupois when in a dry form, may be sold in fractional percentages, but ~~such~~ these packages are not exempt from any other requirements of this Article."

**SECTION 2.** Pursuant to G.S. 106-6.1, the Board of Agriculture may adopt temporary and permanent rules to establish rental rates for the use of farmers markets and agriculture centers operated by the Department of Agriculture and Consumer Services.

**SECTION 3.** This act is effective when it becomes law. The authority of the Board of Agriculture to adopt temporary rules under Section 2 of this act expires 1 March 2004.

In the General Assembly read three times and ratified this the 13<sup>th</sup> day of May, 2003.

Became law upon approval of the Governor at 5:58 p.m. on the 20<sup>th</sup> day of May, 2003.

**H.B. 393****Session Law 2003-72**

AN ACT TO MODIFY THE AUTHORITY OF THE BOARD OF COUNTY COMMISSIONERS IN CERTAIN COUNTIES TO REQUIRE THE REGISTER OF DEEDS IN THE COUNTY NOT TO ACCEPT ANY DEED TRANSFERRING REAL PROPERTY FOR REGISTRATION UNLESS THE COUNTY TAX COLLECTOR CERTIFIES THAT NO DELINQUENT TAXES ARE DUE ON THAT PROPERTY.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 161-31 reads as rewritten:

"(a) Tax Certification. – The board of commissioners of a county may, by resolution, require the register of deeds not to accept any deed transferring real property for registration unless the county tax collector has certified that no delinquent ad valorem county taxes, ad valorem municipal taxes, or other taxes with which the collector is charged are a lien on the property described in the deed. The county commissioners may describe the form the certification must take in its resolution.

(a1) Exception to Tax Certification. – If a board of county commissioners adopts a resolution pursuant to subsection (a) of this section, notwithstanding the resolution, the register of deeds shall accept without certification a deed submitted for registration under the supervision of a closing attorney and containing this statement on the deed: 'This instrument prepared by: \_\_\_\_\_, a licensed North Carolina attorney. Delinquent taxes, if any, to be paid by the closing attorney to the county tax collector upon disbursement of closing proceeds.'

(b) Applicability. – This section applies only to Alleghany, Anson, Beaufort, Bertie, Cabarrus, Camden, Carteret, Cherokee, Chowan, Clay, Cleveland, Currituck, Davidson, Durham, Forsyth, Gaston, Graham, Granville, Harnett, Haywood, Henderson, Hertford, Hyde, Iredell, Jackson, Lee, Macon, Madison, Martin, Montgomery, Northampton, Pasquotank, Perquimans, Person, Pitt, Polk, Rockingham, Rowan, Rutherford, Stanly, Swain, Transylvania, Vance, Warren, Washington, and Yadkin Counties."

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

In the General Assembly read three times and ratified this the 12<sup>th</sup> day of May, 2003.

Became law upon approval of the Governor at 6:10 p.m. on the 20<sup>th</sup> day of May, 2003.

**H.B. 517****Session Law 2003-73**

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF HOLLY SPRINGS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** The Charter of the Town of Holly Springs is revised and consolidated to read as follows:

"CHARTER OF THE TOWN OF HOLLY SPRINGS.

"ARTICLE I. INCORPORATION, CORPORATE POWERS, AND BOUNDARIES.

"Section 1.1. **Incorporation.** The Town of Holly Springs and the inhabitants thereof shall continue to be a municipal body politic and corporate under the name of the 'Town of Holly Springs', hereinafter at times referred to as the 'Town'.

"Section 1.2. **Powers.** The Town shall have and may exercise all of the powers, duties, rights, privileges, and immunities conferred upon the Town of Holly Springs specifically by this Charter or upon municipal corporations by general law. The term 'general law' is employed herein as defined in G.S. 160A-1.

"Section 1.3. **Corporate Limits.** The corporate limits shall be those existing at the time of ratification of this Charter, as set forth on the official map of the Town and as they may be altered from time to time in accordance with law. An official map of the Town, showing the current municipal boundaries, shall be maintained permanently in the office of the Town Clerk and shall be available for public inspection. Upon alteration of the corporate limits pursuant to law, the appropriate changes to the official map shall be made and copies shall be filed in the office of the Secretary of State, the Wake County Register of Deeds, and the appropriate board of elections.

"ARTICLE II. GOVERNING BODY.

"Section 2.1. **Town Governing Body.** The Board of Commissioners, hereinafter referred to as the 'Board', and the Mayor shall be the governing body of the Town.

"Section 2.2. **Board of Commissioners; Composition; Terms of Office.** The Board shall be composed of five members, to be elected by all the qualified voters of the Town, for staggered terms of four years and until their successors are elected and qualified.

"Section 2.3. **Mayor; Term of Office; Duties.** The Mayor shall be elected by all the qualified voters of the Town for a term of four years and until a successor is elected and qualified. The Mayor shall be the official head of the Town government and shall preside at meetings of the Board. The Mayor shall have the right to vote only when there is an equal division on any question or matter before the Board and shall exercise the powers and duties conferred by law or as directed by the Board.

"Section 2.4. **Mayor Pro Tempore.** In accordance with general law, the Board shall elect one of its members to act as Mayor Pro Tempore to perform the duties of the Mayor during his or her absence or disability.

"Section 2.5. **Meetings.** In accordance with general law, the Board shall establish a suitable time and place for its regular meetings. Special and emergency meetings may be held as provided by general law.

"Section 2.6. **Quorum; Voting.** Official actions of the Board and all votes shall be taken in accordance with the applicable provisions of general law, particularly G.S. 160A-75. The quorum provisions of G.S. 160A-74 shall apply.

"Section 2.7. **Compensation; Qualifications for Office; Vacancies.** The compensation and qualifications of the Mayor and Commissioners shall be in accordance with general law.

"ARTICLE III. ELECTIONS.

"Section 3.1. **Regular Municipal Elections.** Regular municipal elections shall be held in each odd-numbered year in accordance with the uniform municipal election laws of North Carolina. Elections shall be conducted on a nonpartisan basis and the results determined by a plurality as provided in G.S. 163-292.

"Section 3.2. **Election of Mayor.** At the regular municipal election in 2005, and quadrennially thereafter, a Mayor shall be elected to serve a term of four years.

"Section 3.3. **Election of Commissioners.** At the regular municipal election in 2003, and quadrennially thereafter, two Commissioners shall be elected to four-year terms. At the regular municipal election in 2005, and quadrennially thereafter, three Commissioners shall be elected to four-year terms.

"Section 3.4. **Special Elections and Referenda.** Special elections and referenda may be held only as provided by general law or applicable local acts of the General Assembly.

"ARTICLE IV. ORGANIZATION AND ADMINISTRATION.

"Section 4.1. **Form of Government.** The Town shall operate under the council-manager form of government as provided in Part 2 of Article 7 of Chapter 160A of the General Statutes.

"Section 4.2. **Town Attorney.** The Board shall appoint a Town Attorney licensed to practice law in North Carolina. It shall be the duty of the Town Attorney to represent the Town, advise Town officials, and perform other duties required by law or as the Board may direct.

"Section 4.3. **Town Clerk.** The Board shall appoint a Town Clerk to keep a journal of the proceedings of the Board, to maintain official records and documents, to give notice of meetings, and to perform such other duties required by law or as the Board may direct.

"Section 4.4. **Tax Collector.** The Board shall appoint a Tax Collector to collect all taxes owed to the Town and perform those duties specified in G.S. 105-350 and such other duties as prescribed by law or assigned by the Board.

"Section 4.5. **Other Administrative Officers and Employees.** The Board may authorize other positions to be filled by appointment and may organize the Town government as deemed appropriate, subject to the requirements of general law.

"ARTICLE V. MISCELLANEOUS POWERS.

"Section 5.1. **Tree Ordinances.**

(a) The Town may adopt ordinances to regulate the removal and preservation of existing trees and shrubs prior to development within a perimeter buffer zone of up to 50 feet along public roadways and property boundaries adjacent to developed properties and up to 25 feet along property boundaries adjacent to undeveloped properties.

(b) Ordinances adopted pursuant to this section shall:

- (1) Provide that the required buffer area shall not exceed twenty percent (20%) of the area of the tract, net of public road rights-of-way and any required conservation easements.



- (2) Provide that buffer zones that adjoin public roadways shall be measured from the edge of the public road right-of-way.
- (3) Provide that tracts of two acres or less, net of public road rights-of-way, that are zoned for single-family residential use are exempt from the requirements of the ordinances.
- (4) Provide that the ordinances are limited to situations where undeveloped property is planned or zoned in accordance with adopted municipal plans and zoning regulations.
- (5) Provide that a survey of individual trees is not required.
- (6) Include reasonable provisions for access onto and within the subject property.
- (7) Exclude normal forestry activities on property taxed under the present-use value standard or conducted pursuant to a forestry management plan prepared or approved by a forester registered pursuant to Chapter 89B of the General Statutes. However, for such properties, a municipality may deny a building permit or refuse to approve a site or subdivision plan for a period of three years following completion of the harvest if all or substantially all of the perimeter buffer trees that should have been protected were removed from the tract of land for which the permit or plan approval is sought. A municipality may deny a permit or refuse to approve a site or subdivision plan for a period of two years if the owner replants the buffer area within 120 days of harvest with plant material that is consistent with buffer areas required under the municipality's ordinances.

(c) Before adopting an ordinance under this section, the governing board of the municipality shall hold a public hearing on the proposed ordinance. Notice of the public hearing shall be given in accordance with G.S. 160A-364.

(d) Nothing in this section shall be construed to limit or be limited by any other existing laws or ordinances.

(e) This section applies to the Town and to property located within the Town's corporate limits and extraterritorial planning jurisdiction under Article 19 of Chapter 160A of the General Statutes.

(f) This section becomes effective January 1, 2004."

**SECTION 2.** The purpose of this act is to revise the Charter of the Town of Holly Springs and to consolidate herein certain acts concerning the property, affairs, and government of the Town.

**SECTION 3.** The following acts or portions of acts, having served the purposes for which they were enacted, or having been consolidated into this act, are hereby repealed:

- Chapter 110, Session Laws of 1951
- Chapter 121, Session Laws of 1953
- Chapter 495, Session Laws of 1971
- Chapter 331, Session Laws of 1985
- Chapter 382, Session Laws of 1985
- Chapter 941, Session Laws of 1985.

**SECTION 4.** No provision of this act is intended, nor shall be construed, to affect in any way any rights or interests (whether public or private):

- (1) Now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provisions of law repealed by this act.
- (2) Derived from, or which might be sustained or preserved in reliance upon, action heretofore taken pursuant to or within the scope of any provisions of law repealed by this act.

**SECTION 5.** No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted, shall be revived by:

- (1) The repeal herein of any act repealing such law, or
- (2) Any provision of this act that disclaims an intention to repeal or affect enumerated or designated laws.

**SECTION 6.** All existing ordinances and resolutions of the Town of Holly Springs and all existing rules or regulations of departments or agencies of the Town of Holly Springs not inconsistent with the provisions of this act shall continue in full force and effect until repealed, modified, or amended.

**SECTION 7.** No action or proceeding of any nature (whether civil or criminal, judicial or administrative, or otherwise) pending at the effective date of this act by or against the Town of Holly Springs or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

**SECTION 8.** If any part of this act or the application thereof to any person or circumstance is held to be invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

**SECTION 9.** Whenever a reference is made in this act to a particular provision of the General Statutes and such provision is later amended, repealed, or superceded, the reference shall be deemed amended to refer to the amended General Statute or to the General Statute that most nearly corresponds to the statutory provision amended, repealed, or superceded.

**SECTION 10.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 21<sup>st</sup> day of May, 2003.

Became law on the date it was ratified.

## **H.B. 755**

## **Session Law 2003-74**

AN ACT AUTHORIZING THE TOWNS OF CARY AND GARNER TO ACQUIRE PROPERTY FOR THE PRESENT OR FUTURE LOCATION OR RELOCATION OF TELEPHONE, TELEGRAPH, ELECTRIC, OR OTHER LINES TO BE OPERATED BY PUBLIC UTILITIES.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** When acquiring rights-of-way for the construction or improvement of streets, the Town may also locate and acquire such additional rights-of-way as may be necessary for the present or future location or relocation, above or below ground, of telephone, telegraph, electric, and other lines, as well as gas, water, sewerage, oil, and other pipelines to be operated by public utilities defined and regulated under Chapter 62 of the General Statutes. In acquiring real property by

eminent domain for these purposes, the Town may use the procedures of either Chapter 40A or Chapter 136 of the General Statutes.

**SECTION 2.** This act applies to the Towns of Cary and Garner.

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

In the General Assembly read three times and ratified this the 21<sup>st</sup> day of May, 2003.

Became law on the date it was ratified.

## H.B. 790

## Session Law 2003-75

AN ACT REPEALING THE CHARTER FOR THE TOWN OF CASHIERS BECAUSE THE TOWN HAS BEEN INACTIVE SINCE INCORPORATION, AND INCORPORATING THE VILLAGE OF CASHIERS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Chapter 112 of the 1927 Session Laws is repealed.

**SECTION 2.** A Charter for the Village of Cashiers is enacted to read:

"CHARTER OF THE VILLAGE OF CASHIERS.

"ARTICLE I. INCORPORATION AND CORPORATE POWERS.

"Section 1.1. **Incorporation and Corporate Powers.** The inhabitants of the Village of Cashiers are a body corporate and politic under the name 'Village of Cashiers'. The Village of Cashiers has all the powers, duties, rights, privileges, and immunities conferred and imposed on cities by the general laws of North Carolina.

"ARTICLE II. CORPORATE BOUNDARIES.

"Section 2.1. **Village Boundaries.** Until modified in accordance with law, the boundaries of the Village of Cashiers are as follows:

BEGINNING at the northernmost corner of parcel number 7582-01-46-2769 (n/f Hooper), and running along the northeast and east boundaries of said parcel to the southeast corner of said parcel, also being the southwest corner of parcel number 7582-01-46-7446, (n/f Martin), thence along the south boundary of parcel number 7582-01-46-2769 (n/f Hooper), to the easternmost corner of parcel number 7582-01-36-8125 (n/f Parsons), thence along the south boundary of said parcel to the southwest corner of said parcel, thence along the south boundary of parcel number 7582-01-36-4097 (n/f Parsons), to the northeast corner of parcel number 7582-01-35-4422 (n/f Dezell), thence along the east boundary of said parcel to its southeast corner, thence along the south boundary of said parcel to its southernmost corner, thence along the east boundary of parcel number 7582-03-34-4905 (n/f Oak Ridge Builders) to its southeast corner, thence along the east boundary of parcel number 7582-03-34-4732 (n/f Cudahy) to its southeast corner, thence along the east boundary of parcel number 7582-03-34-4541 (n/f Buck) to its southeast corner, thence along the east boundary of parcel number 7582-03-34-4323 (n/f Roberts) to its southeast corner, thence along the east boundary of parcel number 7582-03-34-3127 (n/f Mansfield) to the northeast corner of parcel number 7582-03-33-2996 (n/f Davis), thence along the east boundary of said parcel to the south corner of said parcel, thence along the south boundary of said parcel to its intersection with Parsons View Road, thence crossing said road to the easternmost corner of parcel number 7582-03-23-8948 (n/f Mountain View Ventures, Inc.), thence along the west boundary of parcel number 7582-03-43-7333 (n/f Mountain View Ventures, Inc.) to the southwest corner of said parcel thence along the south boundary of said parcel to the northeast corner of parcel number

7582-03-32-6218 (n/f Mountain View Ventures, Inc.), thence along the southeast boundary of said parcel to the east corner of parcel number 7582-03-31-2811 (n/f Mountain View Ventures, Inc.), thence along the southeast boundary of said parcel to its south corner, thence along the southwest boundary of said parcel to the southeast corner of parcel number 7582-03-21-0825 (n/f Mountain View Ventures, Inc.), thence along the south boundary of said parcel to the southeast corner of parcel number 7582-03-11-4915 (n/f Lewis), thence along the south boundary of said parcel to the southeast corner of parcel number 7582-03-01-9935 (n/f Lewis), thence along the south boundary of said parcel to the southeast corner of parcel number 7582-03-02-4432 (n/f Engelhardt), thence along the south boundary of said parcel to the east corner of parcel number 7582-03-01-2926 (n/f McCarlton Partners Ltd.), thence along the south boundary of said parcel to the southeast corner of parcel number 7572-04-92-2412 (n/f Andrews), thence along the south boundary of said parcel to a point in that south boundary, said point being due north from the northeast corner of parcel number 7572-04-91-5415 (n/f Ledbetter Ltd.), thence to said northeast corner of said parcel, thence along the east boundary of said parcel to a corner in the line of said parcel, thence in a southeasterly direction to the north corner of parcel number 7572-04-91-8321 (n/f Lofton), thence along the northeast boundary of said parcel to the northernmost corner of the right of way for East Halsted Road, thence along the east boundary of said right of way to its intersection of the north boundary of Wake Road, thence along the northeast boundary of said right of way to the westernmost corner of parcel number 7582-03-00-3170 (n/f Yates), thence along the northwest boundary of said parcel to the north corner of said parcel, thence along the northeast boundary of said parcel to the north corner of parcel number 7582-03-00-2470 (n/f Kehoe), thence along the northeast boundary of said parcel to a point in the north boundary of parcel number 7582-03-00-3224 (n/f Cranford), thence along the north boundary of said parcel to its northeast corner, thence along the east boundary of said parcel to the northeast corner of parcel number 7582-03-00-3068 (n/f Davis), thence along the east boundary of said parcel to the north corner of parcel number 7581-01-09-4898 (n/f Riley), thence along the northeast boundary of said parcel to its easternmost corner, thence along the south boundary of said parcel to its southwest corner in the right of way of Wade Road. Thence along the east boundary of the right of way for Wade Road in a southerly direction to the west corner of parcel number 7581-01-09-9220 (n/f Pearce), thence along the northwest boundary of said parcel to its north corner, thence along the northeast boundary of said parcel in a southerly direction to its southeast corner, thence along the south boundary of said parcel to the northeast corner of parcel number 7581-01-08-9975 (n/f Fox), thence along the east boundary of said parcel to the northeast corner of parcel number 7581-01-08-9760 (n/f St. John), thence along the east boundary of said parcel to the southernmost corner of said parcel, thence in a northwesterly direction along the southwest boundary of said parcel to its southwest corner. Thence in a southerly direction along the southeast boundary of parcel number 7581-01-08-5411 (n/f Johnson) to the south corner of said parcel, thence along the southwest boundary of said parcel to the boundary of the right of way for Wade Road; thence along the south boundary of the right of way for Wade Road to the north corner of parcel number 7581-01-07-1941 (n/f Strong), thence along the east boundary of said parcel to the east corner of parcel number 7571-02-97-8784 (n/f Jordan), thence along the southeast boundary of said parcel to the east corner of parcel number 7571-02-97-7588 (n/f Warriner). Thence in a southwesterly direction to the north corner of parcel number 7571-04-94-4469 (n/f Waddell), thence along the east boundary of

said parcel to the north corner of parcel number 7571-04-93-7748 (n/f Chattooga Dev. Corp.), thence along the north boundary of said parcel in a southerly direction to a corner and thence continuing with said boundary in a northeast direction to the intersection of said boundary with the west boundary of Chimney Top Trail, thence along the west boundary of Chimney Top Trail to the south corner of parcel number 7581-03-04-1419 (n/f Fazio), thence leaving Chimney Top Trail and along the west boundary of said parcel to the north corner of said parcel, thence along the northeast boundary of said parcel to its intersection with the west boundary of the right of way for Chimney Top Trail; thence along the west boundary of Chimney Top Trail to the southwest corner of parcel number 7581-01-16-3228 (n/f Sims), thence along the northwest boundary of said parcel to the northwest corner of parcel number 7581-01-16-5306 (n/f Coker), thence along the north boundary of said parcel to the northwest corner of parcel number 7581-01-16-6377 (n/f Collier), thence along the north boundary of said parcel to the northwest corner of parcel number 7581-01-16-8321 (n/f Domesicik), thence along the north boundary of said parcel to the northwest corner of parcel number 7581-01-16-9281 (n/f Cay), thence along the northeast boundary of said parcel to the northwest corner of parcel number 7581-01-26-1164 (n/f Ingram) to the north boundary of the right of way for Chimney Top Trail. Thence along the north boundary of Chimney Top Trail to the west corner of parcel number 7581-01-26-7298 (n/f Allen, Inc.), thence leaving Chimney Top Trail and running to the northwest corner of parcel number 7581-01-26-9206 (n/f Moore), thence along the north boundary of said parcel to the northwest corner of parcel number 7581-01-36-0212 (n/f Puckett), thence along the north boundary of said parcel to the north corner of parcel number 7581-01-36-1115 (n/f Watson), thence along the northeast boundary of said parcel to the north corner of parcel number 7581-01-36-1096 (n/f Dalton), thence along the north boundary of said parcel to the north corner of parcel number 7581-03-44-0738 (n/f Wade Hampton POA) thence along the west, southwest and east boundaries of said parcel to the southwest corner of parcel number 7581-04-54-1583 (n/f Dunagon), thence along the west boundary of said parcel to its northwest corner and the southwest corner of parcel number 7581-04-54-1946 (n/f Dehority), thence along the west boundary of said parcel to the southwest corner of parcel number 7581-02-55-1424 (n/f Jones), thence along the north boundary of said parcel to the northwest corner of parcel number 7581-02-55-6467 (n/f Chanin), thence along the north boundary of said parcel to the northeast corner of said parcel, thence along the east boundary of said parcel to the north corner of parcel number 7581-02-55-7122 (n/f Green), thence along the east boundary of said parcel to the north corner of parcel number 7581-04-54-7508 (n/f Keller), thence along the east boundary of said parcel to the northeast corner of parcel number 7581-04-54-5037 (n/f Gary), thence along the east boundary of said parcel to the northeast corner of parcel number 7581-04-53-6754 (n/f Livermore), thence along the east boundary of said parcel to the northeast corner of parcel number 7581-04-53-5473 (n/f Floyd), thence along the east boundary of said parcel to the northeast corner of parcel number 7581-04-53-5135 (n/f Griffin), thence along the east boundary of said parcel to the northeast corner of parcel number 7581-04-52-6931 (n/f Davis), thence along the east boundary of said parcel to the northeast corner of parcel number 7581-04-52-6658 (n/f Tattersall), thence along the east boundary of said parcel to the northwest corner of parcel number 7581-04-52-7288 (n/f Smith), thence along the north boundary of said parcel to the northwest corner of parcel number 7581-04-62-3346 (n/f Green), thence along the north boundary of said parcel to the northwest corner of parcel number 7581-04-72-0320 (n/f Green), thence

along the north boundary of said parcel to the northeast corner of said parcel, thence along the east boundary of said parcel to the north corner of parcel number 7581-04-71-1054 (n/f Wade Hampton Co.), thence along the east boundary of said parcel to the north corner of parcel number 7581-04-71-0589 (n/f McKee), thence along the east boundary of said parcel to the northeast corner of parcel number 7581-04-71-1008 (n/f McKee Development), thence along the east boundary of said parcel to the northeast corner of parcel number 7581-04-60-9645 (n/f Loon Corp.), thence along the southeast boundary of said parcel to the east corner of parcel number 7581-04-60-3281 (n/f Loon Corp.), thence along the south boundary of said parcel to the southwest corner of said parcel and the south boundary of the right of way of Silver Springs Road (formerly known as "Deer Camp Road"), thence along the south boundary of the right of way for said road to the southeast corner of parcel number 7581-04-50-0244 (n/f Glover), thence leaving said road and running in a west direction with the north boundary of 7581-03-40-7042 (n/f Silver Run Inc.) to its westernmost corner and the east boundary of North Carolina Highway 107 South, thence along the east boundary of the right of way for Highway 107 South, and the west boundary of parcel number 7581-03-40-7042 (n/f Silver Run, Inc.) to the southwest corner of said parcel, thence continuing along the east boundary of the right of way for Highway 107 South in a southerly direction to the southwest corner of parcel number 7580-00-49-6555 (n/f Silver Run, Inc.), thence crossing Highway 107 South and running to the southeast corner of parcel number 7581-03-20-0657 (n/f West Hampton Club, LLC), said corner being in the west boundary of the right of way for Highway 107 South, thence leaving Highway 107 South and running along the south boundary of said parcel to the southeast corner of parcel number 7580-00-29-6440 (n/f Bryson), thence along the east boundary of said parcel to the northeast corner of said parcel, thence along the north boundary of said parcel to the northwest corner of said parcel, thence along the west boundary of said parcel to the southwest corner of said parcel, thence along the south boundary of parcel number 7581-03-20-0657 (n/f West Hampton Club, LLC) to the southwest corner of said parcel, thence along the west boundary of said parcel to the southeast corner of parcel number 7580-00-09-7162 (n/f Dillard), thence along the south boundary of said parcel to its southwest corner, thence along the southeast boundary of parcel number 7580-00-09-4833 (n/f Kinnard) to the south corner of said parcel, thence along the southwest boundary of said parcel in a northwesterly direction to a corner with parcel number 7580-00-09-1070 (n/f Golden Rule Properties), thence along the line of said parcel in a westerly direction to parcel number 7580-00-09-2945 (n/f Little Terrapin), thence along the southeast and southwest boundary of said parcel to a corner with parcel number 7580-00-09-1070 (n/f Golden Rule Properties), thence with the line of said parcel to a point in the southwest line of parcel number 7571-04-90-8017 (n/f Coggiola), thence with the southeast line of said parcel to its south corner and the east corner of parcel number 7570-00-99-5900 (n/f Moore), thence with the southeast boundary of said parcel to the southeast corner of parcel number 7570-00-99-3873 (n/f Stewart), thence along the southeast boundary of said parcel to the southeast corner of parcel number 7570-00-99-2777 (n/f Kehm), thence along the southeast boundary of said parcel to the southeast corner of parcel number 7570-00-99-1770 (n/f Kehm), thence along the southeast boundary of said parcel to the southeast corner of parcel number 7570-00-99-0589 (n/f Kehm), thence with the southeast boundary of said parcel to a point in said boundary line and the westernmost point of parcel number 7570-00-99-3500 (n/f Kehm), thence with the southwestern boundary of said parcel to the easternmost corner of parcel number

7570-00-89-9405 (n/f Walburn), thence with the southeast boundary of said parcel to the northeast corner of parcel number 7570-00-89-7172 (n/f Evans), thence with the east boundary of said parcel to the north corner of parcel number 7570-00-99-1164 (n/f Little Terrapin Property Owners), thence with the east boundary of said parcel to the northwest corner of parcel number 7570-00-98-2976 (n/f Langford), thence with the southwest boundary of said parcel to the northwest corner of parcel number 7570-00-98-6709 (n/f Gibbs), thence along the southeast boundary of parcel number 7570-00-98-0840 (n/f Langford) to its south corner, thence along the west boundary of said parcel to its northwest corner, thence along the south boundary of parcel number 7570-00-88-7936 (n/f Langford) to its southwest corner, being a point in the east boundary of parcel number 7570-00-79-6188 (n/f USA), thence along the northeast boundary of the USA parcel to its north corner, being a point in the line of parcel number 7571-04-61-2284 (n/f River), running thence in a southwesterly direction along the boundary of the River parcel to the southernmost corner of said parcel, thence in a northerly direction to the southwest corner of parcel number 7571-04-51-7634 (n/f Berglund), thence along the southwest boundary of said parcel to the westernmost corner of said parcel, thence along the north boundary of said parcel to the northeast corner of said parcel, thence along the north boundary of parcel number 7571-04-61-2284 (n/f River) to the southwest corner of parcel number 7571-04-62-7189 (n/f Ingram), thence along the west boundary of said parcel to the southwest corner of parcel number 7571-04-62-8620 (n/f Ingram), thence along the west and northwest boundaries of said property to the westernmost corner of parcel number 7571-04-72-1729 (n/f Terry), thence along the west boundary of said property to the northwest most corner of said parcel, thence crossing Whiteside Cove Road in a northwesterly direction to the southwest corner of parcel number 7571-04-73-2459 (n/f Parsons), thence along the southwest boundary of said parcel to the southeast corner of parcel number 7571-04-63-0643 (n/f First National Bank of Palm Beach), thence along the south boundary of said parcel to the southwest corner of said parcel, thence along the north boundary of parcel 7571-03-21-3762 (n/f Warren) to the southwest corner of parcel number 7571-03-13-1347 (n/f Crawford), thence along the southwest boundary of said parcel to the southwest corner of parcel number 7571-03-03-8596 (n/f Powell), thence along the west and northwest boundaries of said parcel to the westernmost corner of Timber Ridge Drive (parcel number 7571-03-14-5568) (n/f Timber Ridge), thence along the end of Timber Ridge Drive to a point, thence along the northern boundary of the right-of-way for Timber Ridge Drive in an easterly direction to a corner near the northeast corner of parcel number 7571-03-13-4366 (n/f Cameron), thence with the west boundary of the right-of-way of Timber Ridge Drive to Devil's Courthouse View Road, thence along the western and southwestern boundary of the right-of-way for said road to a point due south of the southwest corner of parcel number 7571-01-15-4360 (n/f Swanson), thence crossing said road to the southwest corner of the Swanson parcel, thence along the west boundary of said parcel to the northwest corner of said parcel, thence along the north boundary of said parcel to the southwest corner of parcel number 7571-01-15-9621 (n/f Slaughter), thence along the west boundary of said parcel to the southwest corner of parcel number 7571-01-25-0815 (n/f Tidwell), thence along the west boundary of said parcel to the southwest corner of parcel number 7571-01-26-0094 (n/f Baumgarner), thence along the west boundary of said parcel to its northwest corner, thence along the north boundary of said parcel to its northeast corner, thence with the west boundary of the right-of-way for Mitten Lane, SR 1110, to its intersection with the boundary of 7571-01-26-5723 (n/f Education Tomorrow), thence along the southwest

boundary of said parcel to its westernmost corner, thence along the west boundary of said parcel to the south corner of parcel number 7571-01-27-0141 (n/f Davis), thence along the west boundary of said parcel to the south corner of parcel number 7571-01-27-0376 (n/f Young), thence along the western boundary of said parcel to the south corner of parcel number 7571-01-27-1502 (n/f Madden), thence along the southwest boundary of said parcel to the southernmost corner of parcel number 7571-01-27-9527 (n/f Madden), thence along the southwest boundary of said parcel to the southwestern corner of the right-of-way for Zeb Alley Road SR 1111 and the westernmost corner of parcel number 7571-01-17-9527 (n/f Madden), thence to the southeast corner of parcel number 7571-01-17-8774 (n/f Pell) near the north boundary of the right-of-way of Zeb Alley Rd, thence along the southwest boundary of said parcel to the westernmost corner of said parcel, thence along the south and west boundaries of parcel number 7571-01-18-5076 (n/f Wakulla Motel) to the southwest corner of said parcel, thence in a northerly direction along the boundary of parcel number 7571-01-08-5333 (n/f Silver Slip Lodge) to the east corner of parcel number 7561-00-96-0982 (n/f Spraggins), thence along the southeast boundary of said parcel to its south corner, thence along the west boundary of said parcel to the south corner of parcel number 7561-00-97-0291 (n/f Walden), thence with the west boundary of said parcel to the southeast corner of parcel number 7561-00-97-0571 (n/f Woock), thence along the south boundary of said parcel to the southeast corner of parcel number 7561-00-87-5533 (n/f Woocks at Millstone Inn, Inc.), thence along the southwest boundary of said parcel to the southeast corner of parcel number 7561-00-87-4659 (n/f Woock), thence along the south boundary of said parcel to its southwest corner, thence with the north boundary of parcel number 7561-01-77-5244 (n/f Black) in a westerly direction to the northwest corner of said parcel, thence along the south boundary of parcel number 7561-00-68-1485 (n/f Stewart) to its southwest corner and the southeast corner of parcel number 7561-00-58-6320 (n/f Kapers), thence along the southeast boundary of said parcel to its southernmost corner, thence along the southwest boundary of said parcel to the southwest corner of parcel number 7561-00-69-0110 (n/f Palmetto Investors Group, Inc.), thence along the west boundary of said parcel to the southwest corner of parcel number 7561-00-59-4079 (n/f Kapers), thence along the west boundary of said parcel to its northwest corner, said corner being in the south boundary of the right-of-way for US Hwy 64, thence crossing US Hwy 64 in a northwesterly direction to the easternmost corner of parcel number 7561-00-59-3533 (n/f Atkinson Properties), thence with the northern boundary of the right-of-way for US Hwy 64 in a northwesterly direction to the westernmost corner of parcel number 7562-03-01-8754 (n/f Wildcat Mountains Development Co, Inc.), thence along the west boundary of said parcel to the southwest corner of parcel number 7562-03-02-9707 (n/f MMB Development), thence along the southwest boundary of said parcel to its westernmost corner, thence along the northwest boundary of said parcel to the west corner of parcel number 7562-03-12-1965 (n/f MMB Development), thence along the northwest boundary of said parcel to its north corner, thence along the northeast boundary of said parcel to the north corner of parcel number 7562-03-12-4893 (n/f Walker), thence along the northwest boundary of said parcel to the northwest corner of parcel number 7562-03-12-8653 (n/f Hubbard), thence along the north boundary of said parcel to the northwest corner of parcel number 7562-03-22-3353 (n/f Highlands Land Trust), thence along the north boundary of said parcel to the northwest corner of parcel number 7562-03-32-0554 (n/f Senterfit Trust), thence along the north boundary of said parcel to the northwest corner of parcel number 7562-03-32-4479 (n/f Smith), thence along the



north boundary of said parcel to the northeast corner of said parcel, thence along the east boundary of said parcel to the north corner of 7562-03-32-6275 (n/f Smith), thence along the east boundary of said parcel to the northeast corner of parcel number 7562-03-32-6173 (n/f Worley), thence along the east boundary of said parcel to the northwest corner of parcel number 7562-03-31-8648 (n/f Douglass), thence along the north boundary of said parcel to the north corner of parcel number 7562-03-31-9494 (n/f Collins), thence to the northwest corner of parcel number 7562-03-41-3458 (n/f Bryan), thence along the north boundary of said parcel to the north corner of parcel number 7562-03-41-5294 (n/f Bryan), thence to the northwest corner of parcel number 7562-03-41-7387 (n/f Watts), thence along the north boundary of said parcel to the northwest corner of parcel number 7562-04-51-1436 (n/f Hilliard), thence along the north boundary of said parcel to the northwest corner of parcel number 7562-04-51-4504 (n/f Meek), thence along the north boundary of said parcel to the westernmost corner of parcel number 7562-04-61-0810 (n/f Wallace), thence along the northwest boundary of said parcel to its north corner, thence along the east boundary of said parcel to the north corner of parcel number 7562-04-61-1584 (n/f Wallace), thence along the east and northeast boundary of said parcel to the westernmost corner of parcel number 7562-04-61-8590 (n/f Drake), thence along the northwest boundary of said parcel to the westernmost corner of parcel number 7562-04-71-0705 (n/f Drake), thence along the northwest boundary of said parcel to its northernmost corner, thence along the northeast boundary of said parcel to its easternmost corner, thence along the southeast boundary of said parcel to its southernmost corner, thence along the northeast boundary of parcel number 7562-04-61-8590 (n/f Drake) to the easternmost corner of said parcel, thence with the boundary of said parcel in a southwesterly direction to a point in the line of parcel number 7562-04-71-6044 (n/f Coyle), thence from said point in a southeasterly direction to the easternmost corner of said parcel, thence in a northeasterly direction along the north boundary of parcel number 7562-04-70-8590 (n/f Failey) to the northeast corner of said parcel, thence in a northeasterly direction along the boundary of parcel number 7562-04-81-7067 (n/f Joe Mike LLC) to the north corner of said parcel and the easternmost corner of parcel number 7562-04-81-8324 (n/f Coyle), thence with the northwest boundary of said parcel to the northwest corner of parcel number 7562-04-91-0486 (n/f Choate), thence along the north boundary of said parcel to the northwest corner of parcel number 7562-04-91-3526 (n/f Oberle), thence along the north boundary of said parcel to the northwest corner of parcel number 7562-04-91-5518 (n/f Valley Helicopters), thence along the north boundary of said parcel to the northeast corner of said parcel and a point in the line of parcel number 7562-04-91-6756 (n/f Dillard), thence along the southwest boundary of said parcel to its west corner and the south corner of parcel number 7562-04-92-1260 (n/f Pinchot), thence in a northwesterly direction along the southwest boundary of said parcel to the northernmost corner of said parcel, thence in a southeasterly direction along the boundary of said parcel to the westernmost corner of parcel number 7562-04-92-6224 (n/f Johnson), thence along the northwest boundary of said parcel to the westernmost corner of parcel number 7562-04-92-3962 (n/f Johnson), thence along the northwest boundary of said parcel to its north corner, thence in a southeasterly direction to the southwest corner of parcel number 7562-04-93-4146 (n/f Owen), thence in a northerly direction to the north corner of said parcel, thence along the northeast boundary of said parcel to the northwest corner of parcel number 7562-04-93-9030 (n/f McCall), thence along the north boundary of said parcel to its northernmost corner and the westernmost corner of parcel number 7572-03-03-2205 (n/f Pressley), thence along the northwest

boundary of the Pressley parcel to the westernmost corner of parcel number 7572-03-03-2521 (n/f McCall), thence along the northwest boundary of said parcel to the westernmost corner of parcel number 7572-03-03-4684 (n/f Moss), thence along the northwest boundary of said parcel to a point in the line of parcel number 7572-03-04-5028 (n/f Dills), thence with the boundary of the Dills parcel to its westernmost corner and the southwest corner of parcel number 7572-03-04-1259 (n/f Brandon), thence with the west boundary of the Brandon parcel to its northwest corner, thence with the north boundary of said parcel to the northwest corner of parcel number 7572-03-04-3268 (n/f Newberry), thence along the north boundary of said parcel to the westernmost corner of parcel number 7572-03-04-5324 (n/f Dufilho), thence along the north boundary of said parcel to the northwest corner of parcel number 7572-03-04-7436 (n/f Logan), thence along the north boundary of said parcel to the northwest corner of parcel number 7572-03-04-9558 (n/f Logan), thence along the north boundary of said parcel to the intersection of said boundary and the west boundary of the right-of-way for NC Hwy 107 North, thence with the west boundary of NC Hwy 107 North to a point due south of the southwest corner of parcel number 7572-03-04-8966 (n/f Rogers), thence crossing the right-of-way for NC Hwy 107 North in a north direction to said corner, thence leaving Hwy 107 and running in a northeasterly direction along the boundary of parcel number 7572-01-05-5164 (n/f Jahn) to the north corner of parcel number 7572-03-14-3969 (n/f Pierce), thence along the northeast boundary of parcel number 7572-03-14-6907 (n/f Wolf) to the southeast corner of parcel number 7572-01-15-3647 (n/f Neal), thence along the northeast boundary of said parcel to the north corner of said parcel, thence with the boundary of parcel number 7572-01-16-1209 (n/f Kinsey) to the northeast corner of said parcel, thence continuing with the line of the Kinsey parcel in a westerly direction to the southwest corner of parcel number 7572-01-17-5082 (n/f Cedar Creek Realty), thence with the southwest line of said parcel to its westernmost corner and the south corner of parcel number 7572-01-17-1065 (n/f Webb). Thence with the west boundary of the Webb parcel to the south corner of parcel number 7572-01-17-3704 (n/f Cedar Creek Realty), thence with the southwest boundary of said parcel to its northwest corner, thence along the north boundary of said parcel to the southwest corner of parcel number 7572-01-18-3367 (n/f Toms), thence along the west boundary of said parcel to the southwest corner of parcel number 7572-01-09-8001 (n/f Bennett), thence along the west boundary of said parcel to its north corner and the southwest corner of parcel number 7572-01-09-9267 (n/f Flock), thence along the west boundary of said parcel to its northwest corner, thence along the boundary of parcel number 7573-03-10-3149 (n/f Henry) to the northwest corner of parcel number 7573-03-21-5169 (n/f Damico), thence along the north boundary of said parcel to its northeast corner, thence along the north boundary of parcel number 7573-03-31-2033 (n/f Bebbington) to the northwest corner of parcel number 7573-03-40-8454 (n/f Middelthon), thence along the west boundary of said parcel to the northwest corner of parcel number 7572-02-59-4421 (n/f Big Sheepcliff Property Owners), thence along the west and south boundaries of said parcel to the north corner of parcel number 7572-01-48-0166 (n/f Thomas), thence along the northeast boundary of said parcel and the west boundary of parcel number 7572-02-58-0035 (n/f Foster) to the northeast corner of parcel number 7572-01-47-9109 (n/f Hawkins), thence along the northeast and east boundary of said parcel to its easternmost corner and a corner in the line of parcel number 7572-02-55-4964 (n/f Hawkins), thence with the north boundary of said parcel to the northwest corner of parcel number 7572-02-56-6461 (n/f Hawkins), thence with the north boundary of said

parcel to the northeast corner of said parcel and a point in the line of parcel number 7572-02-66-0536 (n/f Mountain View Ventures), thence along the west boundary of said parcel to its northwest corner, thence along the north boundary of said parcel to the easternmost corner of said parcel, thence to the south corner of parcel number 7572-02-67-1020 (n/f Mountain View Ventures), thence along the eastern boundary of an unnamed private road to its intersection with the north boundary of Wandering Ridge Road, thence along the north boundary of Wandering Ridge Road to the southwest corner of parcel number 7572-02-76-3414 (n/f Law), thence leaving Wandering Ridge Road and running in a northerly direction along the west boundary of said parcel to the northwest corner of said parcel, thence along the north boundary of said parcel to the northwest boundary of the right-of-way for Upper Ridge Road, being a point in the south line of parcel number 7572-02-77-2250 (n/f Law), thence with the northwest boundary of the right-of-way for Upper Ridge Road and the southeast boundary of said parcel to the southeast corner of parcel number 7572-02-77-8219 (n/f Dempsey), thence leaving Upper Ridge Road and running along the west boundary of said parcel to the northernmost corner of said parcel, thence along the south boundary of parcel number 7572-02-87-2951 (n/f Thomas) to the south corner of said parcel and the northwest boundary of the right-of-way for Overlook Pass, thence with the southeast boundary of the Thomas parcel and the northwest boundary of the right-of-way for Overlook Pass to a point in the line of parcel number 7572-02-97-6861 (n/f Rhane), thence with the west boundary of said parcel to its southwest corner, thence with the south boundary of said parcel to the southeast corner of said parcel, being a point in the boundary of the right-of-way for Cedar Creek Road, SR 1120, thence with the west boundary of the right-of-way for Cedar Creek Road in a southeasterly direction to the intersection of the boundary of the right-of-way of said road with the north boundary of the right-of-way of Wandering Ridge Road, thence crossing Cedar Creek Road in an easterly direction to the west corner of parcel number 7582-01-16-0612 (n/f Hackney), thence along the northwest boundary of said parcel to its north corner, thence along the northeast boundary of said parcel to the northwest corner of parcel number 7582-01-16-1586 (n/f Nantahala Power), thence along the north boundary of said parcel to the northwest corner of parcel number 7582-01-16-4505 (n/f Nantahala Power), thence along the north boundary of said parcel to the northwest corner of parcel number 7582-01-16-6527 (n/f Nantahala Power), thence along the north boundary of said parcel to the northwest corner of parcel number 7582-01-16-8559 (n/f Nantahala Power), thence along the north boundary of said parcel to the northwest corner of parcel number 7582-01-26-0683 (n/f Nantahala Power), thence along the north boundary of said parcel to the northeast corner of said parcel and a point in the line of parcel number 7582-01-26-8938 (n/f Valley Corp.), thence along the west boundary of the Valley Corp. parcel to its northwest corner, thence along the north boundary of said parcel to its northeast corner, being a point in the line of parcel number 7582-01-46-2769 (n/f Hooper), thence along the west boundary of said parcel to its northwest corner, thence along the north boundary of said parcel to the point of BEGINNING.

"ARTICLE III. GOVERNING BODY.

"Section 3.1. **Structure of Governing Body; Number of Members.** The governing body of the Village of Cashiers is the Mayor and the Village Council, which shall have five members.

"Section 3.2. **Temporary Officers.** Until the organizational meeting after the initial election in 2003 provided for by Section 4.1 of this Charter, Marcia Moore, Mark Zachary, Frank Doherty, Hamilton Arnall, and Colleen McCall are appointed members

of the Village Council of the Village of Cashiers, and they shall possess and exercise the powers granted to the governing body until their successors are elected or appointed and qualified pursuant to this Charter. If any person named in this section is unable to serve, the remaining temporary officers shall, by majority vote, appoint a person to serve until the initial municipal election is held in 2003.

"Section 3.3. **Manner of Electing Village Council; Term of Office.** The qualified voters of the entire Village shall elect the members of the Village Council, and, except as provided in this section, they shall serve four-year terms. In 2003, the two candidates receiving the highest numbers of votes shall be elected to four-year terms, and the three candidates receiving the next highest numbers of votes shall be elected to two-year terms. In 2005, and quadrennially thereafter, three members shall be elected to four-year terms. In 2007, and quadrennially thereafter, two members shall be elected to four-year terms.

"Section 3.4. **Manner of Electing Mayor; Term of Office; Duties.** The qualified voters of the entire Village shall elect the Mayor. In 2003, and quadrennially thereafter, the Mayor shall be elected for a term of four years. The Mayor shall be the official head of Village government and shall preside at all meetings of the Village Council, shall have the right to vote only when there is an equal division on any question or matter before the Village Council, and shall exercise the powers and duties conferred by law or as directed by the Village Council.

"Section 3.5. **Mayor Pro Tempore.** The Village Council shall appoint one of its members as Mayor Pro Tempore to perform the duties of the Mayor during the Mayor's absence or disability. The Mayor Pro Tempore shall serve in such capacity at the pleasure of the Village Council.

#### "ARTICLE IV. ELECTIONS.

"Section 4.1. **Conduct of Village Elections.** Elections shall be conducted on a nonpartisan basis and results determined by a plurality as provided in G.S. 163-292.

#### "ARTICLE V. ADMINISTRATION.

"Section 5.1. **Village to Operate Under Council-Manager Plan.** The Village shall operate under the Council-Manager form of government as provided in Part 2 of Article 7 of Chapter 160A of the General Statutes.

"Section 5.2. **Village Manager.** The Village Council shall appoint a Village Manager in accordance with G.S. 160A-147. The Manager shall be the administrative head of all Village departments and shall have all the powers and duties conferred by general law, except as expressly limited by the Village Council, so far as authorized by general law, and the provisions of this Charter, and any additional powers conferred by the Village Council. The Manager shall have the power to appoint, suspend, and remove all Village officers, department heads, and employees, except the Village attorney and any other official whose appointment or removal is vested in the Village Council.

#### "ARTICLE VI. TAXES AND BUDGET ORDINANCE.

"Section 6.1. **Commencement of Tax Collection.** From and after the effective date of this act, the citizens and property in the Village of Cashiers shall be subject to municipal taxes levied for the year beginning July 1, 2003, and for that purpose the Village shall obtain from Jackson County a record of property in the area herein incorporated which was listed for property taxes as of January 1, 2003.

"Section 6.2. **Budget.** The Village may adopt a budget ordinance for fiscal year 2003-2004 without following the timetable in the Local Government Budget and Fiscal Control Act but shall follow the sequence of actions in the spirit of the act insofar as is practical. For fiscal year 2003-2004, ad valorem taxes may be paid at par or face

amount within 90 days of adoption of the budget ordinance and thereafter in accordance with the schedule in G.S. 105-360. If the effective date of the incorporation is prior to July 1, 2003, the Village may adopt a budget ordinance for fiscal year 2002-2003 without following the timetable in the Local Government Budget and Fiscal Control Act but shall follow the sequence of actions in the spirit of the act insofar as practical. No ad valorem taxes may be levied for the 2002-2003 fiscal year."

**SECTION 3.** The Village may not exercise any powers authorized under G.S. 160A-360.

**SECTION 4.** The Village may annex areas only as provided in Parts 1 and 4 of Article 4A of Chapter 160A of the General Statutes.

**SECTION 5.** On or before June 30, 2004, and June 30, 2005, the Village Council shall submit to the House and Senate Finance Committees and the Joint Legislative Commission on Municipal Incorporations evidence that the Village is providing four municipal services from the list provided in G.S. 120-163(c) for the benefit of the residents of the Village and that the Village has imposed an ad valorem tax of at least five cents (5¢) on the one hundred dollar (\$100.00) valuation upon all taxable property within the Village's corporate boundaries.

**SECTION 6.** The Jackson County Board of Elections shall conduct an election on a date set by the Board, to be not less than 60 nor later than 120 days after this act becomes law, for the purpose of submission to the qualified voters for the area described in Section 2.1 of the Charter of the Village of Cashiers the question of whether or not the area shall be incorporated as the Village of Cashiers. Registration for the election shall be conducted in accordance with G.S. 163-288.2.

**SECTION 7.** In the election, the question on the ballot shall be:

"[ ]FOR [ ]AGAINST  
Incorporation of the Village of Cashiers."

**SECTION 8.** In the election, if a majority of the votes are cast "For the Incorporation of the Village of Cashiers", Sections 1 through 5 of this act shall become effective on the date that the Jackson County Board of Elections certifies the results of the election. Otherwise, Sections 1 through 5 of this act shall have no force and effect.

**SECTION 9.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 21<sup>st</sup> day of May, 2003.

Became law on the date it was ratified.

## S.B. 290

## Session Law 2003-76

AN ACT TO CLARIFY THAT THE CITY OF GREENSBORO MAY ORDER OWNERS OF RESIDENTIAL PROPERTY TO REPAIR RATHER THAN VACATE HOUSING TO MEET MINIMUM CODE STANDARDS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 160A-443 reads as rewritten:

"§ 160A-443. **Ordinance authorized as to repair, closing, and demolition; order of public officer.**

Upon the adoption of an ordinance finding that dwelling conditions of the character described in G.S. 160A-441 exist within a city, the governing body of the city is hereby authorized to adopt and enforce ordinances relating to dwellings within the city's

territorial jurisdiction that are unfit for human habitation. These ordinances shall include the following provisions:

- (1) That a public officer be designated or appointed to exercise the powers prescribed by the ordinance.
- (2) That whenever a petition is filed with the public officer by a public authority or by at least five residents of the city charging that any dwelling is unfit for human habitation or whenever it appears to the public officer (on his own motion) that any dwelling is unfit for human habitation, the public officer shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest in such dwellings a complaint stating the charges in that respect and containing a notice that a hearing will be held before the public officer (or his designated agent) at a place within the county in which the property is located fixed not less than 10 days nor more than 30 days after the serving of the complaint; that the owner and parties in interest shall be given the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer.
- (3) That if, after notice and hearing, the public officer determines that the dwelling under consideration is unfit for human habitation, he shall state in writing his findings of fact in support of that determination and shall issue and cause to be served upon the owner thereof an order,
  - a. If the repair, alteration or improvement of the dwelling can be made at a reasonable cost in relation to the value of the dwelling (the ordinance of the city may fix a certain percentage of this value as being reasonable), requiring the owner, within the time specified, to repair, alter or improve the dwelling in order to render it fit for human ~~habitation or to vacate and close the dwelling as a human habitation, or~~ habitation.
  - b. If the repair, alteration or improvement of the dwelling cannot be made at a reasonable cost in relation to the value of the dwelling (the ordinance of the city may fix a certain percentage of this value as being reasonable), requiring the owner, within the time specified in the order, to remove or demolish such dwelling. However, notwithstanding any other provision of law, if the dwelling is located in a historic district of the city and the Historic District Commission determines, after a public hearing as provided by ordinance, that the dwelling is of particular significance or value toward maintaining the character of the district, and the dwelling has not been condemned as unsafe, the order may require that the dwelling be vacated and closed consistent with G.S. 160A-400.14(a).
- (4) That, if the owner fails to comply with an order to repair, alter or improve ~~or to vacate and close the dwelling,~~ the public officer may cause the dwelling to be repaired, altered or ~~improved or to be vacated and closed; that the public officer may cause to be posted on the main entrance of any dwelling so closed, a placard with the following~~

~~words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful." Occupation of a building so posted shall constitute a Class 1 misdemeanor.~~ improved.

- (5) That, if the owner fails to comply with an order to remove or demolish the dwelling, the public officer may cause such dwelling to be removed or demolished. The duties of the public officer set forth in subdivisions (4) and (5) shall not be exercised until the governing body shall have by ordinance ordered the public officer to proceed to effectuate the purpose of this Article with respect to the particular property or properties which the public officer shall have found to be unfit for human habitation and which property or properties shall be described in the ordinance. No such ordinance shall be adopted to require demolition of a dwelling until the owner has first been given a reasonable opportunity to bring it into conformity with the housing code. This ordinance shall be recorded in the office of the register of deeds in the county wherein the property or properties are located and shall be indexed in the name of the property owner in the grantor index.

- (5a) ~~If the governing body shall have adopted an ordinance, or the public officer shall have:~~

- a. ~~In a municipality located in counties which have a population in excess of 71,000 by the last federal census (including the entirety of any municipality located in more than one county at least one county of which has a population in excess of 71,000), other than municipalities with a population in excess of 190,000 by the last federal census, issued an order, ordering a dwelling to be repaired or vacated and closed, as provided in subdivision (3)a, and if the owner has vacated and closed such dwelling and kept such dwelling vacated and closed for a period of one year pursuant to the ordinance or order;~~
- b. ~~In a municipality with a population in excess of 190,000 by the last federal census, commenced proceedings under the substandard housing regulations regarding a dwelling to be repaired or vacated and closed, as provided in subdivision (3)a., and if the owner has vacated and closed such dwelling and kept such dwelling vacated and closed for a period of one year pursuant to the ordinance or after such proceedings have commenced,~~

~~then if the governing body shall find that the owner has abandoned the intent and purpose to repair, alter or improve the dwelling in order to render it fit for human habitation and that the continuation of the dwelling in its vacated and closed status would be inimical to the health, safety, morals and welfare of the municipality in that the dwelling would continue to deteriorate, would create a fire and safety hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities, would cause or contribute to blight and the deterioration of property values in the area, and would render unavailable property and a dwelling which might otherwise~~

~~have been made available to ease the persistent shortage of decent and affordable housing in this State, then in such circumstances, the governing body may, after the expiration of such one year period, enact an ordinance and serve such ordinance on the owner, setting forth the following:~~

- ~~a. If it is determined that the repair of the dwelling to render it fit for human habitation can be made at a cost not exceeding fifty percent (50%) of the then current value of the dwelling, the ordinance shall require that the owner either repair or demolish and remove the dwelling within 90 days; or~~
- ~~b. If it is determined that the repair of the dwelling to render it fit for human habitation cannot be made at a cost not exceeding fifty percent (50%) of the then current value of the dwelling, the ordinance shall require the owner to demolish and remove the dwelling within 90 days.~~

~~This ordinance shall be recorded in the Office of the Register of Deeds in the county wherein the property or properties are located and shall be indexed in the name of the property owner in the grantor index. If the owner fails to comply with this ordinance, the public officer shall effectuate the purpose of the ordinance.~~

~~This subdivision only applies to municipalities located in counties which have a population in excess of 71,000 by the last federal census (including the entirety of any municipality located in more than one county at least one county of which has a population in excess of 71,000).~~

~~[This subdivision does not apply to the local government units listed in subdivision (5b) of this section.]~~

- (5b) If the governing body shall have adopted an ordinance, or the public officer shall have:
  - a. In a municipality other than municipalities with a population in excess of 190,000 by the last federal census, issued an order, ordering a dwelling to be repaired or vacated and closed, as provided in subdivision (3)a, and if the owner has vacated and closed such dwelling and kept such dwelling vacated and closed for a period of one year pursuant to the ordinance or order;
  - b. In a municipality with a population in excess of 190,000 by the last federal census, commenced proceedings under the substandard housing regulations regarding a dwelling to be repaired or vacated and closed, as provided in subdivision (3)a., and if the owner has vacated and closed such dwelling and kept such dwelling vacated and closed for a period of one year pursuant to the ordinance or after such proceedings have commenced,

then if the governing body shall find that the owner has abandoned the intent and purpose to repair, alter or improve the dwelling in order to render it fit for human habitation and that the continuation of the dwelling in its vacated and closed status would be inimical to the health, safety, morals and welfare of the municipality in that the dwelling would continue to deteriorate, would create a fire and safety



hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities, would cause or contribute to blight and the deterioration of property values in the area, and would render unavailable property and a dwelling which might otherwise have been made available to ease the persistent shortage of decent and affordable housing in this State, then in such circumstances, the governing body may, after the expiration of such one year period, enact an ordinance and serve such ordinance on the owner, setting forth the following:

- a. If it is determined that the repair of the dwelling to render it fit for human habitation can be made at a cost not exceeding fifty percent (50%) of the then current value of the dwelling, the ordinance shall require that the owner either repair or demolish and remove the dwelling within 90 days; or
- b. If it is determined that the repair of the dwelling to render it fit for human habitation cannot be made at a cost not exceeding fifty percent (50%) of the then current value of the dwelling, the ordinance shall require the owner to demolish and remove the dwelling within 90 days.

This ordinance shall be recorded in the Office of the Register of Deeds in the county wherein the property or properties are located and shall be indexed in the name of the property owner in the grantor index. If the owner fails to comply with this ordinance, the public officer shall effectuate the purpose of the ordinance.

This subdivision applies to the Cities of Eden, Greenville, Lumberton, Roanoke Rapids, and Whiteville, to the municipalities in Lee County, and the Towns of Bethel, Farmville, Newport, and Waynesville only.

(6) Liens. –

- a. That the amount of the cost of repairs, alterations or improvements, ~~or vacating and closing,~~ or removal or demolition by the public officer shall be a lien against the real property upon which the cost was incurred, which lien shall be filed, have the same priority, and be collected as the lien for special assessment provided in Article 10 of this Chapter.
- b. If the real property upon which the cost was incurred is located in an incorporated city, then the amount of the cost is also a lien on any other real property of the owner located within the city limits or within one mile thereof except for the owner's primary residence. The additional lien provided in this sub-subdivision is inferior to all prior liens and shall be collected as a money judgment.
- c. If the dwelling is removed or demolished by the public officer, he shall sell the materials of the dwelling, and any personal property, fixtures or appurtenances found in or attached to the dwelling, and shall credit the proceeds of the sale against the cost of the removal or demolition and any balance remaining shall be deposited in the superior court by the public officer, shall be secured in a manner directed by the court, and shall be

disbursed by the court to the persons found to be entitled thereto by final order or decree of the court. Nothing in this section shall be construed to impair or limit in any way the power of the city to define and declare nuisances and to cause their removal or abatement by summary proceedings, or otherwise.

- (7) If any occupant fails to comply with an order to vacate a dwelling, the public officer may file a civil action in the name of the city to remove such occupant. The action to vacate the dwelling shall be in the nature of summary ejectment and shall be commenced by filing a complaint naming as parties-defendant any person occupying such dwelling. The clerk of superior court shall issue a summons requiring the defendant to appear before a magistrate at a certain time, date and place not to exceed 10 days from the issuance of the summons to answer the complaint. The summons and complaint shall be served as provided in G.S. 42-29. The summons shall be returned according to its tenor, and if on its return it appears to have been duly served, and if at the hearing the public officer produces a certified copy of an ordinance adopted by the governing body pursuant to subdivision (5) authorizing the officer to proceed to vacate the occupied dwelling, the magistrate shall enter judgment ordering that the premises be vacated and that all persons be removed. The judgment ordering that the dwelling be vacated shall be enforced in the same manner as the judgment for summary ejectment entered under G.S. 42-30. An appeal from any judgment entered hereunder by the magistrate may be taken as provided in G.S. 7A-228, and the execution of such judgment may be stayed as provided in G.S. 7A-227. An action to remove an occupant of a dwelling who is a tenant of the owner may not be in the nature of a summary ejectment proceeding pursuant to this paragraph unless such occupant was served with notice at least 30 days before the filing of the summary ejectment proceeding that the governing body has ordered the public officer to proceed to exercise his duties under ~~subdivisions (4) and subdivision~~ (5) of this section to ~~vacate and close or remove~~ and demolish the dwelling.
- (8) That whenever a determination is made pursuant to subdivision (3) of this section that a dwelling must be ~~vacated and closed, or removed~~ or demolished, under the provisions of this section, notice of the order shall be given by first-class mail to any organization involved in providing or restoring dwellings for affordable housing that has filed a written request for such notices. A minimum period of 45 days from the mailing of such notice shall be given before removal or demolition by action of the public officer, to allow the opportunity for any organization to negotiate with the owner to make repairs, lease, or purchase the property for the purpose of providing affordable housing. The public officer or clerk shall certify the mailing of the notices, and the certification shall be conclusive in the absence of fraud. Only an organization that has filed a written request for such notices may raise the issue of failure to mail such notices, and the sole remedy shall be an order requiring the public officer to wait 45 days before causing removal or demolition."

**SECTION 2.** This act applies only to the City of Greensboro.

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

In the General Assembly read three times and ratified this the 22<sup>nd</sup> day of May, 2003.

Became law on the date it was ratified.

**S.B. 478**

**Session Law 2003-77**

AN ACT AUTHORIZING THE CITIES OF DURHAM AND MONROE TO GIVE ANNUAL NOTICE TO CHRONIC VIOLATORS OF THE CITY'S OVERGROWN VEGETATION ORDINANCE.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Section 2 of S.L. 1999-58, as amended by S.L. 2000-33, S.L. 2000-38, and S.L. 2001-107, reads as rewritten:

"Section 2. This act applies to the Cities of ~~High Point, Gastonia, Durham, Gastonia,~~ High Point, Lexington, Monroe, Roanoke Rapids, and Winston-Salem only."

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

In the General Assembly read three times and ratified this the 22<sup>nd</sup> day of May, 2003.

Became law on the date it was ratified.

**H.B. 742**

**Session Law 2003-78**

AN ACT TO IMPLEMENT A PROPOSED ANNEXATION OF THE TOWN OF CAROLINA SHORES.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Section 3.2 of the Charter of the Town of Carolina Shores, as enacted by Section 2 of S.L. 1998-75, reads as rewritten:

"Sec. 3.2. **Manner of Electing Board.** The qualified voters of the entire Town elect all of the members of the Board of Commissioners. The Town is divided into two districts, District 1 consisting of the territory annexed as described in Section 4 of this act; District 2 consists of the remainder of the Town. One member shall be a resident of District 1, two members shall be residents of District 2, and the remaining members may live anywhere within the corporate limits. District 1 and District 2 shall be elected separately on the ballot."

**SECTION 2.** Section 3.3(b) of the Charter of the Town of Carolina Shores, as enacted by Section 2 of S.L. 1998-75, reads as rewritten:

"(b) In 1999 five members of the Board of Commissioners are elected. The three persons receiving the highest numbers of votes are elected to four-year terms and the two persons receiving the next highest numbers of votes are elected to two-year terms. In 2001 and quadrennially thereafter, two members of the council are elected to four-year ~~terms.~~ terms at large. In 2003 and quadrennially thereafter, three members of the council are elected to four-year ~~terms.~~ terms, one a resident of District 1 and two who are residents of District 2."

**SECTION 3.** From July 1, 2003, until the organizational meeting after the 2003 regular municipal election, the Board of Commissioners is expanded from five

members to six members. The Board of Commissioners shall appoint a person who resides in the territory annexed as described in Section 4 of this act to fill that seat.

**SECTION 4.** Sections 1 through 3 of this act become effective only if the Town of Carolina Shores annexes any or all of the following property under Part 2 of Article 4A of Chapter 160A of the General Statutes prior to August 1, 2003:

BEGINNING at a fixed point of southerly side of the intersection of the right-of-way of Clubview Lane and the easterly side of the right-of-way of State Road 1165 then S06°09'45W 200.0 feet, then S06°24'06W for 185.0 feet, then S14°22'08 for 133.05 feet then S31°37'12 for 125.0 feet, then S42°37'12W for 884.77 to a fixed point. Then, turning westerly along a utility easement and along the westerly boundary for the Town of Carolina Shores, N25°36'51W for 1369.78 feet, then N25°36'51W for 1491.07 feet, then N25°34'45W 352.46 feet, then N25°29'27 feet for 2444.56 feet. Then N64°30'38 for 120.58 feet, the northerly along the westerly right-of-way of Watson Ave. N25°29'22W for 7.10 feet then N09°59'30 along a chord of 383.14 feet. Then along the Southerly boundary of the utility easement S77°24'38E for 721.50 feet to the westerly edge of a water body known as Lake D. Then along the lake edge N03°33'56E for 42.98 feet, N03°46'23E for 47.50 feet, then N06°12'39E for 28.37 feet, then N32°08'35E for 25.69 feet, then N14°59'37E, then N00°22'22E for 41.11 feet, then N21°33'30E for 21.17 feet, then N17°36'53E for 28.05 feet, then N29°09'08W for 17.25 feet then S78°32'11W for 19.05 feet and S43°47'28W 21.94 feet to the edge of the pond and the rear property line of lot 283. Then S77°24'38E 312.48 feet and then 185.00 feet, then S12°35'22W 183.16 feet, then S77°24'38 for 914.06 feet along a utility and drainage easement, then continuing along the easement S12°35'22W for 724.87 feet. Then S36°10'40E for 161.38 feet, then S48°17'03E for 11245.30 feet, then S87°46'05E for 153.78 feet, then S38°25'40E for 505.54 feet, then S33°42'50E for 168.96 feet then S22°30'50 for 199.35 feet then S64°59'73W for 901.96 feet along a drainage easement. Then N23°26'21 for 482.18 feet, then N66°33'39E for 185.40 feet then N06°09'45E for 716 feet back to the point of beginning.

**SECTION 5.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 22<sup>nd</sup> day of May, 2003.

Became law on the date it was ratified.

## H.B. 765

## Session Law 2003-79

AN ACT RELATING TO THE DEFINITION OF SUBDIVISION IN CHOWAN COUNTY.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 153A-335, as amended by Section 8 of S.L. 2002-141, reads as rewritten:

"§ 153A-335. "Subdivision" defined.

For purposes of this Part, "subdivision" means all divisions of a tract or parcel of land into ~~three~~-two or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future) and includes all division of land involving the dedication of a new street or a change in existing streets; however, the following is not included within this definition and is not subject to any regulations enacted pursuant to this Part:

- (1) The combination or recombination of portions of previously subdivided and recorded lots if the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the county as shown in its subdivision regulations;
- (2) The division of land into parcels greater than 10 acres if no street right-of-way dedication is involved;
- (3) The public acquisition by purchase of strips of land for widening or opening streets;
- (4) The division of a tract in single ownership the entire area of which is no greater than two acres into not more than three lots, if no street right-of-way dedication is involved and if the resultant lots are equal to or exceed the standards of the county as shown by its subdivision ~~regulations;~~ and regulations;
- (5) The gift of a parent of a single lot to the parent's child or each of the parent's children where no new road is involved, provided:
  - a. That each and every lot has dedicated right-of-way access to the State-maintained road serving the principal parcel or direct access to an approved private road as defined in the ordinance; and
  - b. There are no more than three conveyances under this ~~subdivision.~~ subdivision; and
- (6) The division of land by will; however, the resultant lots may not be eligible for a compliance permit or building permit if the lots do not meet the minimum lot size requirements of the zoning ordinance, septic tank regulations or the building setback ordinance."

**SECTION 2.** This act applies to Chowan County only.

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

In the General Assembly read three times and ratified this the 22<sup>nd</sup> day of May, 2003.

Became law on the date it was ratified.

### S.B. 83

### Session Law 2003-80

AN ACT AUTHORIZING THE CITY OF ROCKY MOUNT TO GIVE ANNUAL NOTICE TO CHRONIC VIOLATORS OF THE CITY'S OVERGROWN VEGETATION ORDINANCE.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Section 2 of S.L. 1999-58, as amended by S.L. 2000-33, S.L. 2000-38, and S.L. 2001-107, reads as rewritten:

"Section 2. This act applies to the Cities of High Point, Gastonia, Lexington, Roanoke Rapids, Rocky Mount, and Winston-Salem only."

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

In the General Assembly read three times and ratified this the 27<sup>th</sup> day of May, 2003.

Became law on the date it was ratified.

S.B. 425

Session Law 2003-81

AN ACT AUTHORIZING THE COUNTY OF CABARRUS TO USE ELECTRONIC MEANS TO PROVIDE PUBLIC NOTICE IN LIEU OF PUBLICATION.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** A county may adopt ordinances providing that legal notice of public hearings may be published through electronic means in lieu of publication in any newspaper. The publication may be on the county's Internet site or by any other means. Ordinances adopted pursuant to this section shall not supersede any State law that requires notice by mail to certain classes of persons or the posting of signs on certain property, nor shall there be any alteration of the publication schedule required by State law.

**SECTION 2.** This act applies to Cabarrus County only.

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

In the General Assembly read three times and ratified this the 27<sup>th</sup> day of May, 2003.

Became law on the date it was ratified.

S.B. 492

Session Law 2003-82

AN ACT TO AMEND AND MODERNIZE THE CHARTER OF THE CITY OF EDEN.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Section 3.3(d) of the Charter of the City of Eden, being Chapter 967 of the Session Laws of 1967, as amended, reads as rewritten:

"(d) The mayor shall exercise such powers and perform such duties as are or may be conferred upon him by the General Laws of North Carolina, by his Charter, and by the ordinances of the ~~town~~ city."

**SECTION 2.** Section 3.5(a) of the Charter of the City of Eden, being Chapter 967 of the Session Laws of 1967, as amended, reads as rewritten:

"(a) ~~The organizational meeting of the council shall be the first regular meeting after the regular city election. The council may fix the date and time of its organizational meeting, provided it shall not be later than the date and time of the first regular meeting of the council in December after the results of the municipal election have been certified.~~ The organization of the council shall take place notwithstanding the absence, death, refusal to serve, failure to qualify, or nonelection of one or more members, but at least a quorum of members must be present."

**SECTION 3.** Section 3.6.1 of the Charter of the City of Eden, being Chapter 967 of the Session Laws of 1967, as amended, reads as rewritten:

"Section 3.6.1 Notice of Meetings.

(a) Regular meetings. A schedule of the regular meetings shall be filed in the office of the city clerk and shall be posted ~~on the principal bulletin board~~ at city hall.

(b) Special meetings. Notice of special meetings shall be delivered to the mayor and each councilman or left at his usual dwelling place at least forty-eight hours before the special meeting. In addition, notice of a special meeting shall:

(1) Be posted ~~on the principal bulletin board~~ at city hall; and

- (2) Be mailed or delivered to each news medium which has requested such special meeting notice. News media asking for special meeting notice shall annually request such notice in writing, filing such request with the city clerk and paying therewith an annual fee of ~~ten dollars~~ as established by the council to cover the costs of providing such notice.

(c) Emergency meetings. Notice of emergency meetings shall be delivered to the mayor and each councilman or left at his usual dwelling place at least six hours before the emergency meeting. In addition, notice of an emergency meeting shall be given to each local news medium which has filed a written request for notice with the city clerk. Notice shall be given to each such local news medium by telephone or by delivering such notice to the principal local office of such news medium at least six hours before an emergency meeting.

(d) The city manager shall cause all notices to be posted, mailed, delivered or telephoned as required by this section."

**SECTION 4.** Section 4.3 of the Charter of the City of Eden, being Chapter 967 of the Session Laws of 1967, is repealed.

**SECTION 5.** Section 5.2 of the Charter of the City of Eden, being Chapter 967 of the Session Laws of 1967, reads as rewritten:

"Sec. 5.2. Duties of City Attorney. It shall be the duty of the City Attorney to prosecute and defend suits for and against the City; to advise the Mayor, the City Council, and other City officials with respect to the affairs of the City; to draw all legal documents relating to the affairs of the City; to draw proposed ordinances when requested to do so; to inspect and pass upon all agreements, contracts, franchises and other instruments with which the City may be concerned; to attend ~~all~~ meetings of the Council; and to perform such other duties as may be required of him by virtue of his position as City Attorney."

**SECTION 6.** Article VII of the Charter of the City of Eden, being Chapter 967 of the Session Laws of 1967, is repealed.

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

In the General Assembly read three times and ratified this the 27<sup>th</sup> day of May, 2003.

Became law on the date it was ratified.

## H.B. 124

## Session Law 2003-83

### AN ACT ADOPTING A PROTEST PETITION REQUIREMENT FOR DURHAM COUNTY.

*The General Assembly of North Carolina enacts:*

**SECTION 1.(a)** Zoning regulations and restrictions and zone boundaries may from time to time be amended, supplemented, changed, modified, or repealed. In case, however, of a protest against such change, signed by the owners of twenty percent (20%) or more of the area either of the lots included in a proposed change or of those immediately adjacent thereto either in the rear thereof or on either side thereof, extending 100 feet therefrom, or of those directly opposite thereto extending 100 feet from the street frontage of the opposite lots, an amendment shall not become effective except by favorable vote of three-fourths of all members of the board of commissioners. The foregoing provisions concerning protests shall not be applicable to any amendment which initially zones property added to the territorial coverage of the ordinance. They

also shall not apply to an amendment to an adopted special use district or conditional use district if the amendment does not: (i) change the types of uses that are permitted within the district or increase the approved density for residential development, (ii) increase the total approved size of nonresidential development, or (iii) reduce the size of any buffers or screening approved for the special use or conditional use district.

**SECTION 1.(b)** Protest petitions must be received by the Clerk to the Board of Commissioners in sufficient time to allow the county at least four normal work days, excluding Saturdays, Sundays, and legal holidays, before the date established for a public hearing on the proposed charge or amendment to determine the sufficiency and accuracy of the petition.

**SECTION 2.** This act applies to the County of Durham only.

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

In the General Assembly read three times and ratified this the 27<sup>th</sup> day of May, 2003.

Became law on the date it was ratified.

**H.B. 520****Session Law 2003-84**

## AN ACT AMENDING THE CHARTER OF THE TOWN OF OAK ISLAND.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Section 4.1 of the Charter of the Town of Oak Island, being S.L. 1999-66, reads as rewritten:

"Sec. 4.1. **Interim Mayor and Council and Succession of Interim Council Members and Mayors.** (a) Upon enactment of this act and on the effective date of consolidation, an interim Town Council shall serve until elections are held in accordance with provisions of this Charter. The following individuals are hereby named to serve as the Interim Council: Linda W. Franklin, Roy R. Johnson, Richard D. Marshall, William S. Smith, Martin John Wozniak, Kevin M. Bell (or the person appointed to succeed him on the Long Beach Town Council), Horace Collier, James H. Locke, H. Michael Oxford, Mary B. Snead, J.K. Somers; Joan P. Altman, Co-Mayor, and Dorothy Kelly, Co-Mayor. The succession of Mayor and Council Member positions shall occur in a rotation prescribed as follows:

**Elected Officials July 1999 - November 1999**

<b>Town Area</b>	<b>Seat</b>	<b>Name</b>	<b>Term Expires</b>
Long Beach	Co-Mayor	Altman(or successor)	2001
Yaupon Beach	Co-Mayor	Kelly(or successor)	2001
Yaupon Beach	Council Member	Smith(or successor)	2001
Yaupon Beach	Council Member	Wozniak(or successor)	2001
Long Beach	Council Member	Bell(or successor)	2001
Long Beach	Council Member	Somers(or successor)	2001
Long Beach	Council Member	Locke(or successor)	2001
Yaupon Beach	Council Member	Franklin(or successor)	1999
Yaupon Beach	Council Member	Marshall(or successor)	1999
Yaupon Beach	Council Member	Johnson(or successor)	1999
Long Beach	Council Member	Oxford(or successor)	1999



Long Beach	Council Member	Collier(or successor)	1999
Long Beach	Council Member	Snead(or successor)	1999

(b) November 1999 Election: Two Council Member seats will be elected, one from Yaupon Beach and one from Long Beach. This preserves equal representation. From November ~~1999-2005~~ on, there will be ~~eight~~six Council Members. Mayor Altman will serve until November 2001.

**Elected Officials November 1999 - November 2001**

<b>Town Area</b>	<b>Seat</b>	<b>Name</b>	<b>Term Expires</b>
At Large	Mayor	Altman	2001
Yaupon Beach	Mayor Pro Tempore	Kelly	2001
Yaupon Beach	Council Member	Smith	2001
Yaupon Beach	Council Member	Wozniak	2001
Yaupon Beach	Council Member	Elected 1999	2003
Long Beach	Council Member	Bell(or successor)	2001
Long Beach	Council Member	Somers	2001
Long Beach	Council Member	Locke	2001
Long Beach	Council Member	Elected 1999	2003

(c) November 2001 Election: Two Council Members from Long Beach will be elected to four-year terms. Two Council Members from Yaupon Beach will be elected to four-year terms. One Council Member from Long Beach will be elected to a two-year term. One Council Member from Yaupon Beach will be elected to a two-year term. The Mayor will be elected at large for a two-year term. The Mayor Pro Tempore will be elected by Council Members at December 2001 Town Council meeting.

**Elected Officials November 2001 - November 2003**

<b>Town Area</b>	<b>Seat</b>	<b>Name</b>	<b>Term Expires</b>
At Large	Mayor	Elected 2001	2003
Yaupon Beach	Council Member	Elected 1999	2003
Yaupon Beach	Council Member	Elected 2001	2003
Yaupon Beach	Council Member	Elected 2001	2005
Yaupon Beach	Council Member	Elected 2001	2005
Long Beach	Council Member	Elected 1999	2003
Long Beach	Council Member	Elected 2001	2003
Long Beach	Council Member	Elected 2001	2005
Long Beach	Council Member	Elected 2001	2005

(d) November 2003 Election: ~~Four~~Three Council Members elected at large to four-year terms. Mayor elected at large to two-year term.

**Elected Officials November 2003 - November 2005**

<b>Town Area</b>	<b>Seat</b>	<b>Name</b>	<b>Term Expires</b>
At Large	Mayor	Elected 2003	2005
Yaupon Beach	Council Member	Elected 2001	2005

Yaupon Beach	Council Member	Elected 2001	2005
Long Beach	Council Member	Elected 2001	2005
Long Beach	Council Member	Elected 2001	2005
At Large	<del>Council Member</del>	<del>Elected 2003</del>	<del>2007</del>
At Large	Council Member	Elected 2003	2007
At Large	Council Member	Elected 2003	2007
At Large	Council Member	Elected 2003	2007

(e) November 2005 Election: ~~Four~~ Three Council Members elected at large to four-year terms. Mayor elected at large to two-year term. Beginning in November 2005, all seats will be elected at large."

**SECTION 2.** Section 4.2 of the Charter of the Town of Oak Island, being S.L. 1999-66, reads as rewritten:

"Sec. 4.2. **Composition of Town Council.** The Town Council shall consist of ~~eight~~ six members to be elected by the qualified voters of the Town at large in the manner provided by Article IV."

**SECTION 3.** Section 4.3(b) of the Charter of the Town of Oak Island, being S.L. 1999-66, reads as rewritten:

"(b) No person shall be eligible to be a candidate or be elected as Mayor or a member of the Town Council, or to serve in such capacity, unless he is a resident and a qualified voter of the Town."

**SECTION 4.** Section 4.4 of the Charter of the Town of Oak Island, being S.L. 1999-66, reads as rewritten:

"Sec. 4.4. **Mayor and Mayor Pro Tempore.** Beginning with the regular municipal election following succession of the Interim Council as provided by this act, and every two years thereafter, there shall be elected a Mayor by the qualified voters of the Town voting at large. The Mayor shall serve for a term of two years. A permanent vacancy in the office of Mayor shall be filled for the unexpired term by a person appointed by the Town Council. The Mayor shall take the oath of office before entry upon the duties of his office. Candidates for Mayor shall file a notice of candidacy as is required by candidates for Town Council.

The Mayor shall be the official head of the Town government, shall preside at all meetings of the Town Council, but shall have the right to vote when there are equal numbers of votes in the affirmative and in the negative. The Mayor shall exercise such powers and perform such duties as are or may be conferred upon him by the general laws of North Carolina, by this Charter, and by the ordinances of the Town. The Town Council shall choose one of its number to act as Mayor Pro Tempore, and he shall perform the duties of the Mayor in the Mayor's absence or disability. The Mayor Pro Tempore ~~as such shall have no fixed term of office, but shall serve in such capacity at the pleasure of the remaining members of the Town Council.~~ shall serve for a term of one year."

**SECTION 5.** Section 4.6(b) of the Charter of the Town of Oak Island, being S.L. 1999-66, reads as rewritten:

"(b) All meetings of the Town Council shall be open to the ~~public~~ public, and shall be governed by the open meeting laws as provided by general law and as amended from time to time. The Town Council shall not by closed session or otherwise formally consider or vote upon any question in private session."

**SECTION 6.** Section 5.1 of the Charter of the Town of Oak Island, being S.L. 1999-66, reads as rewritten:

"Sec. 5.1. **Regular Municipal Elections.** At the regular municipal election to be held following the succession of the Interim Council, and every two years thereafter, ~~four~~three members of the Town Council shall be elected to serve for four-year terms."

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

In the General Assembly read three times and ratified this the 27<sup>th</sup> day of May, 2003.

Became law on the date it was ratified.

**H.B. 651**

**Session Law 2003-85**

AN ACT AMENDING THE CHARTER OF THE CITY OF DURHAM TO ALLOW THE CITY MANAGER TO MAKE DECISIONS REGARDING ROUTINE TRAFFIC CONTROL MEASURES.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** The Charter of the City of Durham, being Chapter 671 of the 1975 Session Laws, as amended, is amended by adding the following new section:

"Sec. 54.1. Traffic Control Measures. – The City Council may, by ordinance, delegate to the City Manager or the Manager's designee the authority to make routine determinations regarding speed limits, parking, loading, standing, and traffic control measures, including the location of stop signs, yield signs, turn restrictions, loading zones, bus stops, and parking restrictions in rights-of-way."

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

In the General Assembly read three times and ratified this the 27<sup>th</sup> day of May, 2003.

Became law on the date it was ratified.

**H.B. 68**

**Session Law 2003-86**

AN ACT TO AUTHORIZE THE TOWN OF SPRING LAKE AND THE CITY OF NEWTON TO USE TRAFFIC CONTROL PHOTOGRAPHIC SYSTEMS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 160A-300.1(d) reads as rewritten:

"(d) This section applies only to the Cities of Albemarle, Charlotte, Durham, Fayetteville, Greensboro, Greenville, High Point, Lumberton, Newton, Rocky Mount, and Wilmington, to the Towns of Chapel Hill, Cornelius, Huntersville, Matthews, Nags Head, ~~and~~ Pineville, and Spring Lake, and to the municipalities in Union County."

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

In the General Assembly read three times and ratified this the 28<sup>th</sup> day of May, 2003.

Became law on the date it was ratified.

AN ACT TO OFFICIALLY DESIGNATE THE INDIANS PREVIOUSLY RECOGNIZED IN THE GENERAL STATUTES AS THE INDIANS OF PERSON COUNTY AS SAPPONY.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 71A-7 reads as rewritten:

"§ 71A-7. ~~Indians of Person County; The Sappony; rights, privileges, immunities, obligations, and duties.~~

The Indian Tribe now residing in Person County, officially recognized as the Indians of Person County by Chapter 22 of the Public-Local Laws of 1913, The Indians who are descendants of those Indians living in Person County for whom the High Plains Indian School was established, shall, from and after ~~July 20, 1971, February 3, 1913,~~ be designated and officially recognized as ~~the Indians of Person County, North Carolina, Sappony,~~ and shall continue to enjoy all their rights, privileges, and immunities as citizens of the State as now or hereafter provided by law, and shall continue to be subject to all the obligations and duties of citizens under the law."

**SECTION 2.** G.S. 143B-407(a) reads as rewritten:

"§ 143B-407. **North Carolina State Commission of Indian Affairs – membership; term of office; chairman; compensation.**

(a) The State Commission of Indian Affairs shall consist of two persons appointed by the General Assembly, the Secretary of Health and Human Services, the Director of the State Employment Security Commission, the Secretary of Administration, the Secretary of Environment and Natural Resources, the Commissioner of Labor or their designees and 21 representatives of the Indian community. These Indian members shall be selected by tribal or community consent from the Indian groups that are recognized by the State of North Carolina and are principally geographically located as follows: the Coharie of Sampson and Harnett Counties; the Eastern Band of Cherokees; the Haliwa Saponi of Halifax, Warren, and adjoining counties; the Lumbees of Robeson, Hoke and Scotland Counties; the Meherrin of Hertford County; the Waccamaw-Siouan from Columbus and Bladen Counties; the ~~Indians of Person County, Sappony;~~ the Occaneechi Band of the Saponi Nation of Alamance and Orange Counties, and the Native Americans located in Cumberland, Guilford, Johnston, Mecklenburg, Orange, and Wake Counties. The Coharie shall have two members; the Eastern Band of Cherokees, two; the Haliwa Saponi, two; the Lumbees, three; the Meherrin, one; the Waccamaw-Siouan, two; the ~~Indians of Person County, Sappony,~~ one; the Cumberland County Association for Indian People, two; the Guilford Native Americans, two; the Metrolina Native Americans, two; the Occaneechi Band of the Saponi Nation, one, the Triangle Native American Society, one. Of the two appointments made by the General Assembly, one shall be made upon the recommendation of the Speaker, and one shall be made upon recommendation of the President Pro Tempore of the Senate. Appointments by the General Assembly shall be made in accordance with G.S. 120-121 and vacancies shall be filled in accordance with G.S. 120-122."

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

In the General Assembly read three times and ratified this the 19<sup>th</sup> day of May, 2003.

Became law upon approval of the Governor at 11:05 a.m. on the 29<sup>th</sup> day of May, 2003.

**S.B. 181**

**Session Law 2003-88**

AN ACT AUTHORIZING THE TOWN OF APEX TO USE THE PROCEDURE AND AUTHORITY OF CHAPTER 136 OF THE NORTH CAROLINA GENERAL STATUTES IN CONDEMNATION PROCEEDINGS CONCERNING PUBLIC STREETS AND ROADS, AND TO ADOPT ORDINANCES REGULATING DEMOLITION OF HISTORIC STRUCTURES IN THE APEX HISTORIC DISTRICT.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Section 6.5 of the Charter of the Town of Apex, being Chapter 356 of the 1985 Session Laws, as added by Chapter 70 of the 1987 Session Laws, reads as rewritten:

"Sec. 6.5. Additional Eminent Domain Powers. Notwithstanding the provisions of G.S. 40A-1, in the exercise of its authority of eminent domain for the acquisition of property interests (including, without limitation, fee simple title, rights-of-way, and easements) to be used for water lines and treatment facilities and sewer lines and treatment facilities, and opening, widening, extending, or improving public streets and roads, the town may use the procedure and authority prescribed in Article 9 of Chapter 136 of the General Statutes of North Carolina, as now or hereafter amended; provided further, that whenever therein the words 'Secretary' or 'Secretary of Transportation' appear, they shall be deemed to include the 'Town ~~Manager~~; Manager', and whenever therein the word 'highway' appears, it is deemed to include 'public works' in accordance with this section, provided further that nothing herein shall be construed to enlarge the power of the town to condemn property already devoted to public use. Provided further, just compensation for the acquisition of fee simple title or a perpetual easement pursuant to this section to be used for street or road right-of-way shall be no less than (i) one dollar (\$1.00) per square foot of real property taken, or (ii) the prorated ad valorem tax value of the parent tract, whichever is less. The powers granted by this section are in addition to and supplementary to those powers granted by any local or general law."

**SECTION 2.** In order to preserve and enhance one of the most valuable and unique natural resources of the community, and to preserve the property values and promote the general welfare of its citizens, the Town of Apex may adopt ordinances to regulate the demolition of historic structures within its municipal corporate limits and extraterritorial jurisdiction. For purposes of this section, "historic structures" means any structure (i) individually listed in the National Register of Historic Places, (ii) listed as a contributing structure in the National Register of Historic Places, (iii) certified or preliminarily determined by the Secretary of the Interior as contributing to the significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district, (iv) individually listed in the State inventory of historic places, (v) listed in the Wake County Register of Historic Places, or (vi) individually listed in a local inventory of historic places in communities with historic preservation programs that have been certified by an approved State program as

determined by the Secretary of the Interior or directly by the Secretary of the Interior in states without approved programs. Prior to adopting any such ordinance, a public hearing shall be held before the town's governing board. Notice of the hearing shall be given in accordance with G.S. 160A-364. Ordinances adopted under this section may not prohibit the demolition of historic structures except in accordance with the provisions of Part 3C of Article 19 of Chapter 160A of the General Statutes.

**SECTION 3.** This act is effective when it becomes law. Section 1 of this act expires on December 31, 2008, but civil actions or special proceedings instituted pursuant to that section on or before December 31, 2008, shall be completed under the provisions of that section as if it had not expired.

In the General Assembly read three times and ratified this the 29<sup>th</sup> day of May, 2003.

Became law on the date it was ratified.

**S.B. 288****Session Law 2003-89**

**AN ACT TO AUTHORIZE POLK COUNTY TO ACQUIRE PROPERTY FOR USE BY ITS BOARD OF EDUCATION.**

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 153A-158.1 reads as rewritten:

**"§ 153A-158.1. Acquisition and improvement of school property in certain counties.**

(a) **Acquisition by County.** – A county may acquire, by any lawful method, any interest in real or personal property for use by a school administrative unit within the county. In exercising the power of eminent domain a county shall use the procedures of Chapter 40A. The county shall use its authority under this subsection to acquire property for use by a school administrative unit within the county only upon the request of the board of education of that school administrative unit and after a public hearing.

(b) **Construction or Improvement by County.** – A county may construct, equip, expand, improve, renovate, or otherwise make available property for use by a school administrative unit within the county. The local board of education shall be involved in the design, construction, equipping, expansion, improvement, or renovation of the property to the same extent as if the local board owned the property.

(c) **Lease or Sale by Board of Education.** – Notwithstanding the provisions of G.S. 115C-518 and G.S. 160A-274, a local board of education may, in connection with additions, improvements, renovations, or repairs to all or part of any of its property, lease or sell the property to the board of commissioners of the county in which the property is located for any price negotiated between the two boards.

(d) **Board of Education May Contract for Construction.** – Notwithstanding the provisions of G.S. 115C-40 and G.S. 115C-521, a local board of education may enter into contracts for the erection of school buildings upon sites owned in fee simple by one or more counties in which the local school administrative unit is located.

(e) **Scope.** – This section applies to Alamance, Alexander, Alleghany, Anson, Ashe, Avery, Bertie, Bladen, Brunswick, Burke, Cabarrus, Caldwell, Camden, Carteret, Catawba, Chatham, Cherokee, Chowan, Clay, Columbus, Craven, Cumberland, Currituck, Dare, Davidson, Davie, Duplin, Durham, Edgecombe, Forsyth, Franklin, Gaston, Gates, Graham, Greene, Guilford, Halifax, Harnett, Haywood, Henderson, Hoke, Hyde, Iredell, Jackson, Johnston, Jones, Lee, Lenoir, Lincoln, Macon, Madison,

Martin, McDowell, Mecklenburg, Mitchell, Montgomery, Moore, Nash, New Hanover, Onslow, Orange, Pamlico, Pasquotank, Pender, Perquimans, Person, Pitt, Polk, Randolph, Richmond, Robeson, Rockingham, Rowan, Rutherford, Sampson, Scotland, Stanly, Stokes, Surry, Transylvania, Union, Vance, Wake, Watauga, Wayne, Wilkes, Wilson, and Yadkin Counties."

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

In the General Assembly read three times and ratified this the 29<sup>th</sup> day of May, 2003.

Became law on the date it was ratified.

## H.B. 63

## Session Law 2003-90

AN ACT TO REPEAL A LOCAL ACT AND TO PROVIDE THAT VACANCIES IN THE OFFICE OF SHERIFF OF RICHMOND COUNTY WILL BE FILLED IN ACCORDANCE WITH G.S. 162-5.1.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 162-5.1, as amended by Ratified Senate Bill 102 of the 2003 Regular Session, reads as rewritten:

"§ 162-5.1. **Vacancy filled in certain counties; duties performed by coroner or chief deputy.**

If any vacancy occurs in the office of sheriff, the coroner of the county shall execute all process directed to the sheriff until the board shall elect a sheriff to supply the vacancy for the residue of the term, who shall possess the same qualifications, enter into the same bond, and be subject to removal, as the sheriff regularly elected. If the sheriff were elected as a nominee of a political party, the board of commissioners shall consult the county executive committee of that political party before filling the vacancy, and shall elect the person recommended by the county executive committee of that party, if the party makes a recommendation within 30 days of the occurrence of the vacancy. If the board should fail to fill such vacancy, the coroner shall continue to discharge the duties of sheriff until it shall be filled.

In those counties where the office of coroner has been abolished, the chief deputy sheriff, or if there is no chief deputy, then the senior deputy in years of service, shall perform all the duties of the sheriff until the county commissioners appoint some person to fill the unexpired term. In all counties the regular deputy sheriffs shall, during the interim of the vacancy, continue to perform their duties with full authority.

This section shall apply only in the following counties: Alamance, Alexander, Alleghany, Avery, Beaufort, Brunswick, Buncombe, Burke, Cabarrus, Caldwell, Carteret, Cherokee, Clay, Cleveland, Davidson, Davie, Edgecombe, Forsyth, Gaston, Graham, Guilford, Haywood, Henderson, Hyde, Jackson, Lincoln, Madison, McDowell, Mecklenburg, Moore, New Hanover, Onslow, Pender, Polk, Randolph, Richmond, Rockingham, Rutherford, Sampson, Stanly, Stokes, Surry, Transylvania, Wake, and Yancey."

**SECTION 2.** Chapter 649 of the 1983 Session Laws is repealed.

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

In the General Assembly read three times and ratified this the 29<sup>th</sup> day of May, 2003.

Became law on the date it was ratified.

## AN ACT TO CLARIFY THE LAW REGARDING COMPETITIVE AND DEREGULATED OFFERINGS OF TELECOMMUNICATIONS SERVICES.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 62-2 reads as rewritten:

**"§ 62-2. Declaration of Policy.**

(a) Upon investigation, it has been determined that the rates, services and operations of public utilities as defined herein, are affected with the public interest and that the availability of an adequate and reliable supply of electric power and natural gas to the people, economy and government of North Carolina is a matter of public policy. It is hereby declared to be the policy of the State of North Carolina:

- (1) To provide fair regulation of public utilities in the interest of the public;
- (2) To promote the inherent advantage of regulated public utilities;
- (3) To promote adequate, reliable and economical utility service to all of the citizens and residents of the State;
- (3a) To assure that resources necessary to meet future growth through the provision of adequate, reliable utility service include use of the entire spectrum of demand-side options, including but not limited to conservation, load management and efficiency programs, as additional sources of energy supply and/or energy demand reductions. To that end, to require energy planning and fixing of rates in a manner to result in the least cost mix of generation and demand-reduction measures which is achievable, including consideration of appropriate rewards to utilities for efficiency and conservation which decrease utility bills;
- (4) To provide just and reasonable rates and charges for public utility services without unjust discrimination, undue preferences or advantages, or unfair or destructive competitive practices and consistent with long-term management and conservation of energy resources by avoiding wasteful, uneconomic and inefficient uses of energy;
- (4a) To assure that facilities necessary to meet future growth can be financed by the utilities operating in this State on terms which are reasonable and fair to both the customers and existing investors of such utilities; and to that end to authorize fixing of rates in such a manner as to result in lower costs of new facilities and lower rates over the operating lives of such new facilities by making provisions in the rate-making process for the investment of public utilities in plants under construction;
- (5) To encourage and promote harmony between public utilities, their users and the environment;
- (6) To foster the continued service of public utilities on a well-planned and coordinated basis that is consistent with the level of energy needed for the protection of public health and safety and for the promotion of the general welfare as expressed in the State energy policy;



- (7) To seek to adjust the rate of growth of regulated energy supply facilities serving the State to the policy requirements of statewide development;
- (8) To cooperate with other states and with the federal government in promoting and coordinating interstate and intrastate public utility service and reliability of public utility energy supply; and
- (9) To facilitate the construction of facilities in and the extension of natural gas service to unserved areas in order to promote the public welfare throughout the State and to that end to authorize the creation of expansion funds for natural gas local distribution companies or gas districts to be administered under the supervision of the North Carolina Utilities Commission.

(b) To these ends, therefore, authority shall be vested in the North Carolina Utilities Commission to regulate public utilities generally, their rates, services and operations, and their expansion in relation to long-term energy conservation and management policies and statewide development requirements, and in the manner and in accordance with the policies set forth in this Chapter. Nothing in this Chapter shall be construed to imply any extension of Utilities Commission regulatory jurisdiction over any industry or enterprise that is not subject to the regulatory jurisdiction of said Commission.

Because of technological changes in the equipment and facilities now available and needed to provide telephone and telecommunications services, changes in regulatory policies by the federal government, and changes resulting from the court-ordered divestiture of the American Telephone and Telegraph Company, competitive offerings of certain types of telephone and telecommunications services may be in the public interest. Consequently, authority shall be vested in the North Carolina Utilities Commission to allow competitive offerings of local exchange, exchange access, and long distance services by public utilities defined in G.S. 62-3(23)a.6. and certified in accordance with the provisions of G.S. 62-110, and the Commission is further authorized after notice to affected parties and hearing to deregulate or to exempt from regulation under any or all provisions of this Chapter: (i) a service provided by any public utility as defined in G.S. 62-3(23)a.6. upon a finding that such service is competitive and that such deregulation or exemption from regulation is in the public interest; or (ii) a public utility as defined in G.S. 62-3(23)a.6., or a portion of the business of such public utility, upon a finding that the service or business of such public utility is competitive and that such deregulation or exemption from regulation is in the public interest.

~~The policy and authority stated in this section shall be applicable to common carriers of passengers by motor vehicle and their regulation by the North Carolina Utilities Commission only to the extent that they are consistent with the provisions of the Bus Regulatory Reform Act of 1985. Notwithstanding the provisions of G.S. 62-110(b) and G.S. 62-134(h), the following services provided by public utilities defined in G.S. 62-3(23)a.6. are sufficiently competitive and shall no longer be regulated by the Commission: (i) intraLATA long distance service; (ii) interLATA long distance service; and (iii) long distance operator services. A public utility providing such services shall be permitted, at its own election, to file and maintain tariffs for such services with the Commission up to and including September 1, 2003. Nothing in this subsection shall limit the Commission's authority regarding certification of providers of such services or its authority to hear and resolve complaints against providers of such services alleged to~~

have made changes to the services of customers or imposed charges without appropriate authorization. For purposes of this subsection, and notwithstanding G.S. 62-110(b), "long distance services" shall not include existing or future extended area service, local measured service, or other local calling arrangements, and any future extended area service shall be implemented consistent with Commission rules governing extended area service existing as of May 1, 2003.

The North Carolina Utilities Commission may develop regulatory policies to govern the provision of telecommunications services to the public which promote efficiency, technological innovation, economic growth, and permit telecommunications utilities a reasonable opportunity to compete in an emerging competitive environment, giving due regard to consumers, stockholders, and maintenance of reasonably affordable local exchange service and long distance service.

(c) The policy and authority stated in this section shall be applicable to common carriers of passengers by motor vehicle and their regulation by the North Carolina Utilities Commission only to the extent that they are consistent with the provisions of the Bus Regulatory Reform Act of 1985."

**SECTION 2.** G.S. 62-133.5 reads as rewritten:

**"§ 62-133.5. Alternative regulation, tariffing, and deregulation of telecommunications utilities.**

(a) Any local exchange company, subject to the provisions of G.S. 62-110(f1), that is subject to rate of return regulation pursuant to G.S. 62-133 or a form of alternative regulation authorized by subsection (b) of this section may elect to have the rates, terms, and conditions of its services determined pursuant to a form of price regulation, rather than rate of return or other form of earnings regulation. Under this form of price regulation, the Commission shall, among other things, permit the local exchange company to determine and set its own depreciation rates, to rebalance its rates, and to adjust its prices in the aggregate, or to adjust its prices for various aggregated categories of services, based upon changes in generally accepted indices of prices. Upon application, the Commission shall, after notice and an opportunity for interested parties to be heard, approve such price regulation, which may differ between local exchange companies, upon finding that the plan as proposed (i) protects the affordability of basic local exchange service, as such service is defined by the Commission; (ii) reasonably assures the continuation of basic local exchange service that meets reasonable service standards that the Commission may adopt; (iii) will not unreasonably prejudice any class of telephone customers, including telecommunications companies; and (iv) is otherwise consistent with the public interest. Upon approval, and except as provided in subsection (c) of this section, price regulation shall thereafter be the sole form of regulation imposed upon the electing local exchange company, and the Commission shall thenceforth regulate the electing local exchange company's prices, rather than its earnings. The Commission shall issue an order denying or approving the proposed plan for price regulation, with or without modification, not more than 90 days from the filing of the application. However, the Commission may extend the time period for an additional 90 days at the discretion of the Commission. If the Commission approves the application with modifications, the local exchange company subject to such approval may accept the modifications and implement the proposed plan as modified, or may, at its option, (i) withdraw its application and continue to be regulated under the form of regulation that existed immediately prior to the filing of the application; (ii) file another proposed plan for price regulation; or (iii) file an application for a form of alternative regulation under subsection (b) of this section. If

the initial price regulation plan is approved with modifications and the local exchange company files another plan pursuant to part (ii) of the previous sentence, the Commission shall issue an order denying or approving the proposed plan for price regulation, with or without modifications, not more than 90 days from that filing by the local exchange company.

(b) Any local exchange company that is subject to rate of return regulation pursuant to G.S. 62-133 and which elects not to file for price regulation under the provisions of subsection (a) above may file an application with the Commission for forms of alternative regulation, which may differ between companies and may include, but are not limited to, ranges of authorized returns, categories of services, and price indexing. Upon application, the Commission shall approve such alternative regulatory plan upon finding that the plan as proposed (i) protects the affordability of basic local exchange service, as such service is defined by the Commission; (ii) reasonably assures the continuation of basic local exchange service that meets reasonable service standards established by the Commission; (iii) will not unreasonably prejudice any class of telephone customers, including telecommunications companies; and (iv) is otherwise consistent with the public interest. The Commission shall issue an order denying or approving the proposed plan with or without modification, not more than 90 days from the filing of the application. However, the Commission may extend the time period for an additional 90 days at the discretion of the Commission. If the Commission approves the application with modifications, the local exchange company subject to such approval may, at its option, accept the modifications and implement the proposed plan as modified or may, at its option, (i) withdraw its application and continue to be regulated under the form of regulation that existed at the time of filing the application; or (ii) file an application for another form of alternative regulation. If the initial plan is approved with modifications and the local exchange company files another plan pursuant to part (ii) of the previous sentence, the Commission shall issue an order denying or approving the proposed plan, with or without modifications, not more than 90 days from that filing by the local exchange company.

(c) Any local exchange company subject to price regulation under the provisions of subsection (a) of this section may file an application with the Commission to modify such form of price regulation or for other forms of regulation. Any local exchange company subject to a form of alternative regulation under subsection (b) of this section may file an application with the Commission to modify such form of alternative regulation. Upon application, the Commission shall approve such other form of regulation upon finding that the plan as proposed (i) protects the affordability of basic local exchange service, as such service is defined by the Commission; (ii) reasonably assures the continuation of basic local exchange service that meets reasonable service standards established by the Commission; (iii) will not unreasonably prejudice any class of telephone customers, including telecommunications companies; and (iv) is otherwise consistent with the public interest. If the Commission disapproves, in whole or in part, a local exchange company's application to modify its existing form of price regulation, the company may elect to continue to operate under its then existing plan previously approved under this subsection or subsection (a) of this section.

(d) In determining whether a price regulation plan is otherwise consistent with the public interest, the Commission shall not consider the local exchange company's past or present earnings or rates of return.

~~(d1)(d)~~ Any local exchange company subject to price regulation under the provisions of subsection (a) of this section, or other alternative regulation under

subsection (b) of this section, or other form of regulation under subsection (c) of this section shall file tariffs for basic local exchange service and toll switched access services stating the terms and conditions of the services and the applicable rates. However, fees charged by such local exchange companies applicable to charges for returned checks shall not be tarified or otherwise regulated by the Commission. The filing of any tariff changing the terms and conditions of such services or increasing the rates for such services shall be presumed valid and shall become effective, unless otherwise suspended by the Commission for a term not to exceed 45 days, 14 days after filing. Any tariff reducing rates for basic local exchange service or toll switched access service shall be presumed valid and shall become effective, unless otherwise suspended by the Commission for a term not to exceed 45 days, seven days after filing. Any local exchange company subject to price regulation under the provisions of subsection (a) of this section, or other alternative regulation under subsection (b) of this section, or other form of regulation under subsection (c) of this section may file tariffs for services other than basic local exchange services and toll switched access services. Any tariff changing the terms and conditions of such services or increasing the rates for an existing service or establishing the terms, conditions, or rates for a new service shall be presumed valid and shall become effective, unless otherwise suspended by the Commission for a term not to exceed 45 days, 14 days after filing. Any tariff reducing the rates for such services shall be presumed valid and shall become effective, unless otherwise suspended by the Commission for a term not to exceed 45 days, seven days after filing. In the event of a complaint with regard to a tariff filing under this subsection, the Commission may take such steps as it deems appropriate to assure that such tariff filing is consistent with the plan previously adopted pursuant to subsection (a) of this section, subsection (b) of this section, or subsection (c) of this section.

(e) Any allegation of anticompetitive activity by a competing local provider or a local exchange company shall be raised in a complaint proceeding pursuant to G.S. 62-73.

(f) Notwithstanding the provisions of G.S. 62-140, or any Commission rule or regulation, the Commission shall permit a local exchange company or a competing local provider to offer competitive services with flexible pricing arrangements to business customers pursuant to contract and shall permit other flexible pricing options. Local exchange companies and competing local providers shall be required to give the Commission one business day's notice but need not seek Commission approval for any promotion or bundled service offering for residence or business customers involving both regulated and nonregulated services that feature price discounts that apply exclusively to services not regulated by the Commission. Furthermore, local exchange companies and competing local providers may offer special promotions and bundles of new or existing service or products without the obligation to identify or convert existing customers who subscribe to the same or similar services or products. The Commission's complaint authority under G.S. 62-73 and subsection (e) of this section is applicable to any promotion or bundled service offering filed or offered under this subsection.

(g) The following sections of Chapter 62 of the General Statutes shall not apply to local exchange companies subject to price regulation under the terms of subsection (a) of this section: G.S. 62-35(c), 62-45, 62-51, 62-81, 62-111, 62-130, 62-131, 62-132, 62-133, 62-134, 62-135, 62-136, 62-137, 62-139, 62-142, and 62-153."

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

In the General Assembly read three times and ratified this the 19<sup>th</sup> day of May, 2003.

Became law upon approval of the Governor at 4:55 p.m. on the 30<sup>th</sup> day of May, 2003.

**S.B. 979**

**Session Law 2003-92**

AN ACT TO AMEND THE PROCESS BY WHICH A MEMBER OF THE GENERAL ASSEMBLY IS APPOINTED TO THE ATLANTIC STATES MARINE FISHERIES COMMISSION AND TO MAKE TECHNICAL, CLARIFYING, AND CONFORMING CHANGES.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** The title of Article 19 of Chapter 113 of the General Statutes reads as rewritten:

"Article 19.

Atlantic States Marine Fisheries Compact and Commission."

**SECTION 2.** G.S. 113-251 reads as rewritten:

"§ 113-251. **Definition of terms.**

(a) As used in this ~~Article, the word Article:~~

(1) ~~'Commission' refers to~~ means the Atlantic States Marine Fisheries Commission and the word ~~"commissioner" refers to a member of that Commission.~~ Commission.

(b) ~~The reference in Article III of the Compact set out in G.S. 113-252 to the chairman of the committee on commercial fisheries shall be deemed to refer to the chairman of the Marine Fisheries Commission.~~

(c) ~~The reference in Article III of the Compact set out in G.S. 113-252 to the Commissioner of Commercial Fisheries shall be deemed to refer to the Secretary.~~

(d) ~~The reference in Article III of the Compact set out in G.S. 113-252 to the Board of the North Carolina Department of Conservation and Development shall be deemed to refer to the Secretary.~~

(2) 'Commissioner' means a member of the Atlantic States Marine Fisheries Commission.

(3) 'Compact' means the Atlantic States Marine Fisheries Compact.

(4) 'Fisheries Director' means the Director of the Division of Marine Fisheries of the Department of Environment and Natural Resources."

**SECTION 3.** Article III of G.S. 113-252 reads as rewritten:

"§ 113-252. **Atlantic States Marine Fisheries Compact and Commission.**

...

ARTICLE III

Each state joining herein shall appoint three representatives to a commission hereby constituted and designated as the Atlantic States Marine Fisheries Commission. ~~The Board of the North Carolina Department of Conservation and Development shall designate either the director of the Department, the chairman of the committee on commercial fisheries, or the Commissioner of Commercial Fisheries as one member of the Commission, and the Commission on Interstate Cooperation of the State shall designate a member of the North Carolina legislature as one of the members of said~~

~~Commission, and the third member of said Commission, who shall be a citizen of the State having a knowledge of and interest in marine fisheries, shall be appointed by the Governor. One shall be the executive officer of the administrative agency of the state charged with the conservation of the fisheries resources to which this compact pertains. The second shall be a member of the legislature appointed by the Governor. The third shall be a citizen who has knowledge of and interest in marine fisheries issues, appointed by the Governor. This Commission shall be a body corporate, with the powers and duties set forth herein.~~

...."

**SECTION 4.** G.S. 113-254 reads as rewritten:

"§ 113-254. **North Carolina members of Commission.**

(a) ~~In pursuance of Article III of said Compact the Compact, there shall be three members (hereinafter called commissioners) of the Atlantic States Marine Fisheries Commission (hereinafter called Commission) from the State of commissioners from North Carolina. The first commissioner from the State of North Carolina shall be the Fisheries Director of the Division of Marine Fisheries of the Department, ex officio, and the term of such ex officio shall be the Fisheries Director, ex officio. The term of this commissioner shall terminate at the time he the commissioner ceases to hold such office, and his office as the Fisheries Director. The successor as to this commissioner shall be his the commissioner's successor as Fisheries Director of the Division of Marine Fisheries. Fisheries Director. The second commissioner from the State of North Carolina shall be a legislator and member of the Commission on Interstate Cooperation of the State of North Carolina, ex officio, designated by said Commission on Interstate Cooperation, and the appointed by the Governor. The term of any such ex officio this commissioner shall terminate at the time he the commissioner ceases to hold said legislative office or said office as Commissioner on Interstate Cooperation, and his successor as commissioner legislative office. This commissioner's successor shall be named in like manner appointed by the Governor. The Governor (by and with the advice and consent of the Senate) shall appoint a citizen as a third commissioner who shall have a knowledge of and interest in the marine fisheries problem. The third commissioner from the State of North Carolina shall be a citizen of the State with knowledge of and interest in marine fisheries issues appointed by the Governor. The term of said Commissioner this commissioner shall be three years and he years. This commissioner may be reappointed for successive terms and shall hold office until his the commissioner's successor shall be is appointed and qualified. Vacancies A vacancy occurring in the office of such Commissioner from this commissioner for any reason or cause shall be filled by appointment by the Governor (by and with the advice and consent of the Senate) Governor for the unexpired term.~~

(b) ~~The Fisheries Director of the Division of Marine Fisheries appointed pursuant to Article III as ex officio commissioner may delegate, from time to time, may delegate to any deputy or other subordinate of the Fisheries Director, Director the power to be present and participate, including voting, present, participate, and vote as his the Fisheries Director's representative or substitute at any meeting of or hearing by or other proceedings meeting, hearing, or other proceeding of the Commission.~~

~~The terms of each of the initial three members shall begin at the date of the appointment of the appointive commissioner, provided the said Compact shall then have gone into effect in accordance with Article II of the Compact; otherwise they shall begin upon the date upon which said Compact shall become effective in accordance with said Article II.~~

**"§ 158-35. Commission membership, officers, compensation.**

(a) Commission Membership. – The governing body of the Zone is the Global TransPark Development Commission. The members of the Commission must be residents of the Zone and shall be appointed as follows:

- (1) The board of commissioners of each county participating in the Zone shall appoint three voting members, one of whom shall be a minority person as defined in G.S. 143-128.2(g)(2) and one of whom may be a member of the board of commissioners.
- (2) The Commission ~~shall appoint at least three but no more than~~ may appoint up to seven voting members. By the appointment of these members, the Commission shall ensure that the voting membership of the Commission includes at least seven women and seven members of a racial minority described in G.S. 143-128.2(g)(2). The Commission shall appoint the fewest number of members necessary to achieve these minimums.
- (3) Four nonvoting members shall be appointed as follows:
  - a. One appointed by the Chancellor of East Carolina University to represent the University.
  - b. One appointed by a majority vote of the presidents of the community colleges located in the Zone, to represent the community colleges.
  - c. One appointed by the chair of the State Ports Authority, to represent the sea ports of the State.
  - d. One member of the board of directors of the Global TransPark Foundation, Inc., appointed by that board.

(b) Terms. – Members of the Commission shall serve for staggered four-year terms. The members appointed by the Chancellor of East Carolina University and by the chair of the State Ports Authority shall serve an initial term of two years. The members appointed by the community colleges located in the Zone and by the board of directors of the Global TransPark Foundation, Inc., shall serve an initial term of four years. ~~The Authority shall designate at least one half of its appointees to serve an initial term of two years; its remaining appointees shall serve an initial term of four years.~~ Each board of commissioners shall designate one of its appointees to serve an initial term of four years, one to serve an initial term of two years, and one to serve an initial term to be determined at the first meeting of the Commission. One-half of the appointees designated to serve an undetermined initial term shall serve an initial term of two years, as determined by lot at the first meeting of the Commission. The remainder of the appointees designated to serve an undetermined initial term shall serve an initial term of four years. Initial terms begin upon approval by the Secretary of State of the articles of incorporation.

(c) Removal; Vacancies. – A member of the Commission may be removed with or without cause by the appointing body. In addition, a majority of the Commission members may, by majority vote, remove a member of the Commission if that member does not attend at least three-quarters of the regularly scheduled meetings of the Commission during any consecutive 12-month period of service of that member on the Commission, except that absences excused by the Commission due to serious medical or family circumstances shall not be considered. If the Commission votes to remove a member under this subsection, the vacancy shall be filled in the same manner as the original appointment. Appointments to fill vacancies shall be made for the remainder of

(c) Any commissioner may be removed from office by the Governor upon charges and after a hearing."

**SECTION 5.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 20<sup>th</sup> day of May, 2003.

Became law upon approval of the Governor at 5:01 p.m. on the 30<sup>th</sup> day of May, 2003.

**S.B. 468**

**Session Law 2003-93**

**AN ACT TO CLARIFY THE LAW GOVERNING THE MODIFICATION AND TERMINATION OF IRREVOCABLE TRUSTS.**

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 36A-125.4(b) reads as rewritten:

"(b) Where the beneficiaries of an irrevocable trust seek to compel a termination of the trust ~~or modify it in a manner that affects its continuance according to its terms, and if the continuance of the trust is necessary to carry out a material purpose of the trust, or where the beneficiaries seek to compel a modification of the trust in a manner that is inconsistent with its material purpose,~~ the trust cannot be modified or terminated unless the court in its discretion determines that the reason for modifying or terminating the trust under the circumstances substantially outweighs the interest in accomplishing a material purpose of the trust."

**SECTION 2.** G.S. 36A-125.11 reads as rewritten:

"§ **36A-125.11. Procedure.**

(a) A proceeding under this Article may be brought under the Uniform Declaratory Judgment Act, Article 26 of Chapter 1 of the General Statutes, the provisions of which shall apply to that proceeding to the extent not inconsistent with this Article.

(b) A proceeding under this Article to approve or disapprove a proposed modification or termination under the provisions of G.S. 36A-125.3, 36A-125.4, 36A-125.6(a), and 36A-125.7 may be commenced by a trustee or beneficiary. The trustee shall be a necessary party to all proceedings under this Article commenced by a beneficiary."

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

In the General Assembly read three times and ratified this the 21<sup>st</sup> day of May, 2003.

Became law upon approval of the Governor at 5:02 p.m. on the 30<sup>th</sup> day of May, 2003.

**S.B. 517**

**Session Law 2003-94**

**AN ACT TO REDUCE THE MINIMUM MEMBERSHIP OF THE GLOBAL TRANSPARK DEVELOPMENT COMMISSION, ALSO CALLED THE EASTERN REGION COMMISSION.**

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 158-35 reads as rewritten:



the unexpired term by the respective appointing authority. All members shall serve until their successors are appointed and qualified, unless removed from office.

(d) Dual Office Holding. – Service on the Commission may be in addition to any other office a person is entitled to hold.

(e) Officers. – The Commission shall annually elect from its membership a chairperson and a vice-chairperson, and shall annually elect a secretary and a treasurer. After the Commission has been duly organized and its officers elected as provided in this section, the secretary of the Commission shall certify to the Secretary of State the names and addresses of the officers as well as the address of the principal office of the Commission.

(f) Compensation. – The members of the Commission shall receive no compensation other than travel, subsistence, and reasonable per diem expenses determined by the Commission for attendance at Commission meetings and other official Zone functions."

**SECTION 2.** This act is effective when it becomes law. This act does not affect the term of any current member of the Commission.

In the General Assembly read three times and ratified this the 21<sup>st</sup> day of May, 2003.

Became law upon approval of the Governor at 5:02 p.m. on the 30<sup>th</sup> day of May, 2003.

**S.B. 449**

**Session Law 2003-95**

AN ACT TO CLARIFY ADMISSIBLE EVIDENCE THAT THE PERSON WITHDRAWING BLOOD IN AN IMPAIRED DRIVING CASE IS A LICENSED PHYSICIAN, NURSE, OR AN OTHERWISE QUALIFIED PERSON.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 20-139.1(c) reads as rewritten:

"(c) Withdrawal of Blood for Chemical Analysis. – When a blood test is specified as the type of chemical analysis by the charging officer, only a physician, registered nurse, or other qualified person may withdraw the blood sample. If the person withdrawing the blood requests written confirmation of the charging officer's request for the withdrawal of blood, the officer shall furnish it before blood is withdrawn. When blood is withdrawn pursuant to a charging officer's request, neither the person withdrawing the blood nor any hospital, laboratory, or other institution, person, firm, or corporation employing that person, or contracting for the service of withdrawing blood, may be held criminally or civilly liable by reason of withdrawing that blood, except that there is no immunity from liability for negligent acts or omissions.

Evidence regarding the qualifications of the person who withdrew the blood sample may be provided at trial by testimony of the charging officer or by an affidavit of the person who withdrew the blood sample and shall be sufficient to constitute prima facie evidence regarding the person's qualifications."

**SECTION 2.** This act becomes effective December 1, 2003.

In the General Assembly read three times and ratified this the 20<sup>th</sup> day of May, 2003.

Became law upon approval of the Governor at 5:03 p.m. on the 30<sup>th</sup> day of May, 2003.

## S.B. 245

## Session Law 2003-96

AN ACT TO AUTHORIZE THE HUNTING OF COYOTES IN CONTROLLED HUNTING PRESERVES AND TO MAKE IT UNLAWFUL TO IMPORT LIVE COYOTES INTO THIS STATE.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 113-273(g) reads as rewritten:

"(g) Controlled Hunting Preserve Operator License. – The Wildlife Resources Commission is authorized by rule to set standards for and to license the operation of controlled hunting preserves operated by private persons. Controlled hunting preserves are of two types: one is an area marked with appropriate signs along the outside boundaries on which only domestically raised game birds other than wild turkeys are taken; the other is an area enclosed with a dog-proof fence on which foxes and coyotes may be hunted with dogs only. A controlled fox and coyote hunting preserve operated for private use may be of any size; a controlled hunting preserve operated for commercial purposes shall be an area of not less than 500 acres or of such size as set by regulation of the Wildlife Resources Commission, which shall take into account differences in terrain and topography, as well as the welfare of the ~~foxes.~~ wildlife.

Operators of controlled fox hunting preserves may purchase live foxes and coyotes from licensed trappers who live-trap foxes and coyotes during any open season for trapping them and may, at any time, take live foxes from their preserves for sale to other licensed operators. The controlled hunting preserve operator license may be purchased for a fee of fifty dollars (\$50.00), and is an annual license issued beginning ~~August 1 July~~ each year running until the following ~~July 1.~~ June."

**SECTION 2.** G.S. 113-294 is amended by adding a new subsection to read:

"(o) Any person who willfully transports or attempts to transport live coyotes (Canis latrans) into this State for any purpose, or who breeds coyotes for any purpose in this State, is guilty of a Class 1 misdemeanor, and upon conviction the Wildlife Resources Commission shall suspend any controlled hunting preserve operator license issued to that person for two years."

**SECTION 3.** Section 2 of this act becomes effective October 1, 2003, and applies to acts committed on or after that date. The remainder of this act becomes effective October 1, 2003.

In the General Assembly read three times and ratified this the 21<sup>st</sup> day of May, 2003.

Became law upon approval of the Governor at 5:06 p.m. on the 30<sup>th</sup> day of May, 2003.

## S.B. 323

## Session Law 2003-97

AN ACT TO PROTECT THE IDENTITY OF A COMPLAINING PARTY AGAINST A LICENSEE OR AN UNLICENSED GENERAL CONTRACTOR BY THE LICENSING BOARD FOR GENERAL CONTRACTORS AND TO CLARIFY WHEN THE BOARD MAY SEEK INJUNCTIVE RELIEF.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Article 1 of Chapter 87 of the General Statutes is amended by adding the following new section to read:

**"§ 87-15.3. Identity of complaining party confidential.**

Once a complaint has been filed with the Board against a licensee or an unlicensed general contractor, the Board may, in its discretion, keep the identity of a complaining party confidential and not a public record within the meaning of Chapter 132 of the General Statutes until a time no later than the receipt of the complaint by the full Board for a disciplinary hearing or injunctive action."

**SECTION 2.** G.S. 87-13.1 reads as rewritten:

**"§ 87-13.1. Board may seek injunctive relief.**

Whenever ~~it appears to~~ the Board determines that any person, firm or corporation has violated or is violating any of the provisions of this Article or ~~of the~~ rules and regulations of the Board promulgated under this Article, the Board may apply to the superior court for a restraining order and injunction to restrain the violation; and the superior courts have jurisdiction to grant the requested relief, irrespective of whether or not criminal prosecution has been instituted or administrative sanctions imposed by reason of the violation."

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

In the General Assembly read three times and ratified this the 21<sup>st</sup> day of May, 2003.

Became law upon approval of the Governor at 5:08 p.m. on the 30<sup>th</sup> day of May, 2003.

**S.B. 555**

**Session Law 2003-98**

AN ACT TO CLARIFY THAT IT IS A FELONY FOR A SCHOOL SAFETY OFFICER TO HAVE SEXUAL CONTACT OR TAKE INDECENT LIBERTIES WITH A STUDENT.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 14-27.7(b) reads as rewritten:

"(b) If a defendant, who is a teacher, school administrator, student teacher, school safety officer, or coach, at any age, or who is other school personnel, and who is at least four years older than the victim engages in vaginal intercourse or a sexual act with a victim who is a student, at any time during or after the time the defendant and victim were present together in the same school, but before the victim ceases to be a student, the defendant is guilty of a Class G felony, except when the defendant is lawfully married to the student. The term "same school" means a school at which the student is enrolled and the ~~school personnel defendant is employed~~ employed, assigned, or volunteers. A defendant who is school personnel, other than a teacher, school administrator, student teacher, school safety officer, or coach, and is less than four years older than the victim and engages in vaginal intercourse or a sexual act with a victim who is a student, is guilty of a Class A1 misdemeanor. This subsection shall apply unless the conduct is covered under some other provision of law providing for greater punishment. Consent is not a defense to a charge under this section. For purposes of this subsection, the terms "school", "school personnel", and "student" shall have the same meaning as in G.S. 14-202.4(d). For purposes of this subsection, the term 'school safety officer' shall include a school resource officer or any other person who is regularly

present in a school for the purpose of promoting and maintaining safe and orderly schools."

**SECTION 2.** G.S. 14-202.4 reads as rewritten:

**"§ 14-202.4. Taking indecent liberties with a student.**

(a) If a defendant, who is a teacher, school administrator, student teacher, school safety officer, or coach, at any age, or who is other school personnel and is at least four years older than the victim, takes indecent liberties with a victim who is a student, at any time during or after the time the defendant and victim were present together in the same school but before the victim ceases to be a student, the defendant is guilty of a Class I felony, unless the conduct is covered under some other provision of law providing for greater punishment. The term "same school" means a school at which the student is enrolled and the ~~school personnel~~ defendant is employed, ~~employed~~, assigned, or volunteers. A person is not guilty of taking indecent liberties with a student if the person is lawfully married to the student.

(b) If a defendant, who is school personnel, other than a teacher, school administrator, student teacher, school safety officer, or coach, and who is less than four years older than the victim, takes indecent liberties with a student as provided in subsection (a) of this section, the defendant is guilty of a Class A1 misdemeanor.

(c) Consent is not a defense to a charge under this section.

(d) For purposes of this section, the following definitions apply:

(1) "Indecent liberties" means:

- a. Willfully taking or attempting to take any immoral, improper, or indecent liberties with a student for the purpose of arousing or gratifying sexual desire; or
- b. Willfully committing or attempting to commit any lewd or lascivious act upon or with the body or any part or member of the body of a student.

For purposes of this section, the term indecent liberties does not include vaginal intercourse or a sexual act as defined by G.S. 14-27.1.

(2) "School" means any public school, charter school, or nonpublic school under Parts 1 and 2 of Article 39 of Chapter 115C of the General Statutes.

(3) "School personnel" means any person included in the definition contained in G.S. 115C-332(a)(2), and any person who volunteers at a school or a school-sponsored activity.

(3a) "School safety officer" means any other person who is regularly present in a school for the purpose of promoting and maintaining safe and orderly schools and includes a school resource officer.

(4) "Student" means a person enrolled in kindergarten, or in grade one through grade 12 in any school."

**SECTION 3.** This act becomes effective December 1, 2003, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 21<sup>st</sup> day of May, 2003.

Became law upon approval of the Governor at 5:09 p.m. on the 30<sup>th</sup> day of May, 2003.

## H.B. 913

## Session Law 2003-99

AN ACT AUTHORIZING THE NORTH CAROLINA UTILITIES COMMISSION TO DETERMINE A TIME IN WHICH FINAL RULES CONCERNING THE DESIGNATION OF A UNIVERSAL SERVICE PROVIDER FOR TELEPHONE SERVICE SHALL BE ADOPTED.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 62-110(f1) reads as rewritten:

"(f1) Except as provided in subsection (f2) of this section, the Commission is authorized, following notice and an opportunity for interested parties to be heard, to issue a certificate to any person applying to provide local exchange or exchange access services as a public utility as defined in G.S. 62-3(23)a.6., without regard to whether local telephone service is already being provided in the territory for which the certificate is sought, provided that the person seeking to provide the service makes a satisfactory showing to the Commission that (i) the person is fit, capable, and financially able to render such service; (ii) the service to be provided will reasonably meet the service standards that the Commission may adopt; (iii) the provision of the service will not adversely impact the availability of reasonably affordable local exchange service; (iv) the person, to the extent it may be required to do so by the Commission, will participate in the support of universally available telephone service at affordable rates; and (v) the provision of the service does not otherwise adversely impact the public interest. In its application for certification, the person seeking to provide the service shall set forth with particularity the proposed geographic territory to be served and the types of local exchange and exchange access services to be provided. Except as provided in G.S. 62-133.5(f), any person receiving a certificate under this section shall, until otherwise determined by the Commission, file and maintain with the Commission a complete list of the local exchange and exchange access services to be provided and the prices charged for those services, and shall be subject to such reporting requirements as the Commission may require.

Any certificate issued by the Commission pursuant to this subsection shall not permit the provision of local exchange or exchange access service until July 1, 1996, unless the Commission shall have approved a price regulation plan pursuant to G.S. 62-133.5(a) for a local exchange company with an effective date prior to July 1, 1996. In the event a price regulation plan becomes effective prior to July 1, 1996, the Commission is authorized to permit the provision of local exchange or exchange access service by a competing local provider in the franchised area of such local exchange company.

The Commission is authorized to adopt rules it finds necessary (i) to provide for the reasonable interconnection of facilities between all providers of telecommunications services; (ii) to determine when necessary the rates for such interconnection; (iii) to provide for the reasonable unbundling of essential facilities where technically and economically feasible; (iv) to provide for the transfer of telephone numbers between providers in a manner that is technically and economically reasonable; (v) to provide for the continued development and encouragement of universally available telephone service at reasonably affordable rates; and (vi) to carry out the provisions of this subsection in a manner consistent with the public interest, which will include a consideration of whether and to what extent resale should be permitted. In adopting rules to establish an appropriate definition of universal service, the Commission shall

consider evolving trends in telecommunications services and the need for consumers to have access to high-speed communications networks, the Internet, and other services to the extent that those services provide social benefits to the public at a reasonable cost.

Local exchange companies and competing local providers shall negotiate the rates for local interconnection. In the event that the parties are unable to agree within 90 days of a bona fide request for interconnection on appropriate rates for interconnection, either party may petition the Commission for determination of the appropriate rates for interconnection. The Commission shall determine the appropriate rates for interconnection within 180 days from the filing of the petition.

Each local exchange company shall be the universal service provider in the area in which it is certificated to operate on July 1, 1995, until otherwise determined by the Commission. In continuing this State's commitment to universal service, the Commission shall, by December 31, 1996, adopt interim rules that designate the person that should be the universal service provider and to determine whether universal service should be funded through interconnection rates or through some other funding mechanism. By July 1, 2003, At a time determined by the Commission to be in the public interest, the Commission shall complete conduct an investigation and adopt for the purpose of adopting final rules concerning the provision of universal services, the person that should be the universal service provider, and whether universal service should be funded through interconnection rates or through some other funding mechanism.

The Commission shall make the determination required pursuant to this subsection in a manner that furthers this State's policy favoring universally available telephone service at reasonable rates."

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

In the General Assembly read three times and ratified this the 22<sup>nd</sup> day of May, 2003.

Became law upon approval of the Governor at 11:00 a.m. on the 31<sup>st</sup> day of May, 2003.

## S.B. 825

## Session Law 2003-100

AN ACT TO AUTHORIZE THE WILDLIFE RESOURCES COMMISSION TO PROTECT CERTAIN REPTILES AND AMPHIBIANS THAT REQUIRE CONSERVATION MEASURES.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 113-333(a) is amended by adding a new subdivision to read:

"(6) To adopt and implement rules to limit, regulate, or prohibit the taking, possession, collection, transportation, purchase or sale of those species of wild animals in the classes Amphibia and Reptilia that do not meet the criteria for listing pursuant to G.S. 113-334 if the Commission determines that the species requires conservation measures in order to prevent the addition of the species to the protected animal lists pursuant to G.S. 113-334. This subdivision does not authorize the Commission to prohibit the taking of any species of the classes Amphibia and Reptilia solely to protect persons, property, or habitat; to prohibit possession by any person of four or fewer individual

reptiles; or to prohibit possession by any person of 24 or fewer individual amphibians."

**SECTION 2.** The commercial taking of any turtle or terrapin within any of the species of turtles and terrapins in the families Emydidae and Trionychidae that are the large basking and sliding turtles and terrapins is prohibited until such time as the Wildlife Resources Commission adopts rules to regulate the taking of turtles or terrapins within these two families of reptiles. For the purposes of this section, "commercial taking" is defined as the taking, possession, collection, transportation, purchase or sale of five or more individual turtles or terrapins from either of the two families of reptiles described in this section. Any person who violates this section is guilty of a misdemeanor and is punishable as provided in G.S. 113-135. This section shall not apply to a licensed veterinarian; to a bona fide zoo operated by the federal government, the State, or a unit of local government; or to bona fide scientific, biological, medical, or veterinary education or research.

**SECTION 3.** Sections 1 and 3 of this act are effective when this act becomes law. Section 2 of this act becomes effective 1 July 2003 and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 21<sup>st</sup> day of May, 2003.

Became law upon approval of the Governor at 11:11 a.m. on the 31<sup>st</sup> day of May, 2003.

**H.B. 689**

**Session Law 2003-101**

AN ACT CONFORMING RULE 103 OF THE NORTH CAROLINA RULES OF EVIDENCE TO THE CORRESPONDING FEDERAL RULE.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 8C-1, Rule 103(a), reads as rewritten:

"(a) Effect of erroneous ruling. – Error may not be predicated upon a ruling which admits or excludes evidence unless a substantial right of the party is affected, and

- (1) Objection. – In case the ruling is one admitting evidence, a timely objection or motion to strike appears of record. No particular form is required in order to preserve the right to assert the alleged error upon appeal if the motion or objection clearly presented the alleged error to the trial court;
- (2) Offer of proof. – In case the ruling is one excluding evidence, the substance of the evidence was made known to the court by offer or was apparent from the context within which questions were asked. Once the court makes a definitive ruling on the record admitting or excluding evidence, either at or before trial, a party need not renew an objection or offer of proof to preserve a claim of error for appeal."

**SECTION 2.** This act becomes effective October 1, 2003, and applies to rulings on evidence made on or after that date.

In the General Assembly read three times and ratified this the 21<sup>st</sup> day of May, 2003.

Became law upon approval of the Governor at 11:11 a.m. on the 31<sup>st</sup> day of May, 2003.

AN ACT TO PROVIDE THAT A PERSON MAY BE REAPPOINTED TO THE BOARD OF DIRECTORS OF THE ARBORETUM AFTER ONE YEAR'S ABSENCE FROM THE BOARD.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 116-243 reads as rewritten:

"§ 116-243. **Board of directors established; appointments.**

A board of directors to govern the operation of the Arboretum is established, to be appointed as follows:

- (1) Two by the Governor, initially, one for a two-year term, and one for a four-year term. Successors shall be appointed for four-year terms;
- (2) Two by the General Assembly, in accordance with G.S. 120-121, upon the recommendation of the President Pro Tempore of the Senate, initially, one for a two-year term, and one for a four-year term. Successors shall be appointed for four-year terms;
- (3) Two by the General Assembly, in accordance with G.S. 120-121, upon the recommendation of the Speaker of the House of Representatives, initially, one for a two-year term, and one for a four-year term. Successors shall be appointed for four-year terms;
- (4) The President of The University of North Carolina or his designee to serve ex officio;
- (5) The chancellors, chief executive officers, or their designees of the following institutions of higher education: North Carolina State University, Western Carolina University, The University of North Carolina at Asheville, Mars Hill College, and Warren Wilson College, to serve ex officio;
- (6) The President of Western North Carolina Arboretum, Inc., to serve ex officio;
- (7) Six by the Board of Governors of The University of North Carolina, initially, three for one-year terms, and three for three-year terms. Successors shall be appointed for four-year terms. One shall be an active grower of nursery stock, and one other shall represent the State's garden clubs;
- (8) The executive director of the Arboretum and the Executive Vice President of Western North Carolina Development Association shall serve ex officio as nonvoting members of the board of directors.

All appointed members may serve two full four-year terms following the initial appointment and then may not be reappointed until they have been absent for at least ~~four years~~ one year. Members serve until their successors have been appointed. Appointees to fill vacancies serve for the remainder of the unexpired term. Vacancies in appointments made by the General Assembly shall be filled in accordance with G.S. 120-122. Initial terms begin July 1, 1986.

The chairman of the board of directors shall be elected biennially by majority vote of the directors.

The executive director of the Arboretum shall report to the board of directors."



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

In the General Assembly read three times and ratified this the 21<sup>st</sup> day of May, 2003.

Became law upon approval of the Governor at 11:12 a.m. on the 31<sup>st</sup> day of May, 2003.

**S.B. 940**

**Session Law 2003-103**

AN ACT TO PROVIDE JOB PROTECTION FOR VOLUNTEER FIREFIGHTERS, RESCUE SQUAD WORKERS, AND EMERGENCY MEDICAL SERVICES PERSONNEL CALLED INTO THE SERVICE OF THE STATE IN RESPONSE TO A PROCLAMATION OF A STATE OF DISASTER BY THE GOVERNOR OR THE GENERAL ASSEMBLY, OR IN RESPONSE TO AN EMERGENCY SITUATION RESULTING IN THE ACTIVATION OF THE STATE EMERGENCY RESPONSE TEAM.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Article 1 of Chapter 166A of the General Statutes is amended by adding a new section to read:

**"§ 166A-17. Leave options for voluntary firefighters, rescue squad workers, and emergency medical service personnel called into service.**

(a) A member of a volunteer fire department, rescue squad, or emergency medical services agency called into service of the State after a proclamation of a state of disaster by the Governor or by the General Assembly, or upon the activation of the State Emergency Response Team in response to a disaster or emergency, shall have the right to take leave without pay from his or her civilian employment. No member of a volunteer fire department, rescue squad, or emergency medical services agency shall be forced to use or exhaust his or her vacation or other accrued leave from his or her civilian employment for a period of active service. The choice of leave shall be solely within the discretion of the member.

(b) For the volunteer member to be entitled to take leave without pay pursuant to this section, his or her services shall be requested in writing by the Director of the Division of Emergency Management or by the head of a local Emergency Management Agency. The request shall be directed to the Chief of the member's volunteer fire department, rescue squad, or emergency medical services agency and a copy shall be provided to the member's employer. This section shall not apply to those members whose services have been certified by their employer to the Director of the Division of Emergency Management, or to the head of a local Emergency Management Agency, as essential to the employer's own on-going emergency or disaster relief activities.

(c) For purposes of this section, a disaster or emergency requiring the activation of the State Emergency Response Team means a disaster or emergency at Activation Level 2 or greater according to the North Carolina State Emergency Operations Plan of November 2002. Activation Level 2 requires the State Emergency Operations Center to be fully activated with 24-hour staffing from all State Emergency Response Team members.

(d) The Commissioner of Labor shall enforce the provisions of this section pursuant to Chapter 95 of the General Statutes."

**SECTION 2.** This act is effective when it becomes law and applies to any volunteer firefighter, rescue squad worker, or emergency medical services personnel called into service of the State after the proclamation of a state of disaster or the activation of the State Emergency Response Team occurring on or after that date.

In the General Assembly read three times and ratified this the 21<sup>st</sup> day of May, 2003.

Became law upon approval of the Governor at 11:15 a.m. on the 31<sup>st</sup> day of May, 2003.

**S.B. 619****Session Law 2003-104**

AN ACT TO PROVIDE THAT A BLOOD ANALYSIS REPORT SENT DIRECTLY TO THE CLERK OF SUPERIOR COURT MAY BE USED AS THE BASIS FOR THE CIVIL REVOCATION OF A DRIVERS LICENSE.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 20-16.5(f) reads as rewritten:

"(f) Procedure if Report Filed with Clerk of Court When Person Not Present. – When a clerk receives a properly executed report under subdivision (d) (3) and the person named in the revocation report is not present before the clerk, the clerk shall determine whether there is probable cause to believe that each of the conditions of subsection (b) has been met. For purposes of this subsection, a properly executed report under subdivision (d)(3) may include a sworn statement by the charging officer along with an affidavit received directly by the Clerk from the chemical analyst. If he determines that there is such probable cause, he shall mail to the person a revocation order by first-class mail. The order shall direct that the person on or before the effective date of the order either surrender his license to the clerk or appear before the clerk and demonstrate that he is not currently licensed, and the order shall inform the person of the time and effective date of the revocation and of its duration, of his right to a hearing as specified in subsection (g), and that the revocation remains in effect pending the hearing. Revocation orders mailed under this subsection become effective on the fourth day after the order is deposited in the United States mail. If within five working days of the effective date of the order, the person does not surrender his license to the clerk or appear before the clerk to demonstrate that he is not currently licensed, the clerk shall immediately issue a pick-up order. The pick-up order shall be issued and served in the same manner as specified in subsection (e) for pick-up orders issued pursuant to that subsection. A revocation under this subsection begins at the date specified in the order and continues until the person's license has been revoked for the period specified in this subsection and the person has paid the applicable costs. If the person has no pending offenses for which his license had been or is revoked under this section, the period of revocation under this subsection is:

- (1) Thirty days from the time the person surrenders his license to the court, if the surrender occurs within five working days of the effective date of the order; or
- (2) Thirty days after the person appears before the clerk and demonstrates that he is not currently licensed to drive, if the appearance occurs within five working days of the effective date of the revocation order; or

- (3) Forty-five days from the time:
- a. The person's drivers license is picked up by a law-enforcement officer following service of a pick-up order; or
  - b. The person demonstrates to a law-enforcement officer who has a pick-up order for his license that he is not currently licensed; or
  - c. The person's drivers license is surrendered to the court if the surrender occurs more than five working days after the effective date of the revocation order; or
  - d. The person appears before the clerk to demonstrate that he is not currently licensed, if he appears more than five working days after the effective date of the revocation order.

If at the time of the current offense, the person has one or more pending offenses for which his license had been or is revoked under this section, the revocation shall remain in effect until a final judgment, including all appeals, has been entered for the current offense and for all pending offenses. In no event may the period of revocation for the current offense be less than the applicable period of revocation in subdivision (1), (2), or (3) of this subsection. When a pick-up order is issued, it shall inform the person of his right to a hearing as specified in subsection (g), and that the revocation remains in effect pending the hearing. An officer serving a pick-up order under this subsection shall return the order to the court indicating the date it was served or that he was unable to serve the order. If the license was surrendered, the officer serving the order shall deposit it with the clerk within three days of the surrender."

**SECTION 2.** G.S. 20-139.1(c) reads as rewritten:

"(c) **Withdrawal of Blood for Chemical Analysis.** – When a blood test is specified as the type of chemical analysis by the charging officer, only a physician, registered nurse, or other qualified person may withdraw the blood sample. If the person withdrawing the blood requests written confirmation of the charging officer's request for the withdrawal of blood, the officer shall furnish it before blood is withdrawn. When blood is withdrawn pursuant to a charging officer's request, neither the person withdrawing the blood nor any hospital, laboratory, or other institution, person, firm, or corporation employing that person, or contracting for the service of withdrawing blood, may be held criminally or civilly liable by reason of withdrawing that blood, except that there is no immunity from liability for negligent acts or omissions.

The chemical analyst who analyzes the blood shall complete an affidavit stating the results of the analysis on a form developed by the Department of Health and Human Services and provide the affidavit to the charging officer and the clerk of superior court in the county in which the criminal charges are pending."

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

In the General Assembly read three times and ratified this the 21<sup>st</sup> day of May, 2003.

Became law upon approval of the Governor at 11:16 a.m. on the 31<sup>st</sup> day of May, 2003.

AN ACT TO REQUIRE INSURERS TO INFORM COVERED PERSONS ABOUT ASSISTANCE AVAILABLE FROM THE MANAGED CARE PATIENT ASSISTANCE PROGRAM.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 58-50-61(h), (k), and (m) read as rewritten:

"§ 58-50-61. **Utilization review.**

...  
 (h) **Notice of Noncertification.** – A written notification of a noncertification shall include all reasons for the noncertification, including the clinical rationale, the instructions for initiating a voluntary appeal or reconsideration of the noncertification, and the instructions for requesting a written statement of the clinical review criteria used to make the noncertification. An insurer shall provide the clinical review criteria used to make the noncertification to any person who received the notification of the noncertification and who follows the procedures for a request. An insurer shall also inform the covered person in writing about the availability of assistance from the Managed Care Patient Assistance Program, including the telephone number and address of the Program.

...  
 (k) **Nonexpedited Appeals.** – Within three business days after receiving a request for a standard, nonexpedited appeal, the insurer shall provide the covered person with the name, address, and telephone number of the coordinator and information on how to submit written material. For standard, nonexpedited appeals, the insurer shall give written notification of the decision, in clear terms, to the covered person and the covered person's provider within 30 days after the insurer receives the request for an appeal. If the decision is not in favor of the covered person, the written decision shall contain:

- (1) The professional qualifications and licensure of the person or persons reviewing the appeal.
- (2) A statement of the reviewers' understanding of the reason for the covered person's appeal.
- (3) The reviewers' decision in clear terms and the medical rationale in sufficient detail for the covered person to respond further to the insurer's position.
- (4) A reference to the evidence or documentation that is the basis for the decision, including the clinical review criteria used to make the determination, and instructions for requesting the clinical review criteria.
- (5) A statement advising the covered person of the covered person's right to request a second-level grievance review and a description of the procedure for submitting a second-level grievance under G.S. 58-50-62.
- (6) Notice of the availability of assistance from the Managed Care Patient Assistance Program, including the telephone number and address of the Program.

...  
 (m) **Disclosure Requirements.** – In the certificate of coverage and member handbook provided to covered persons, an insurer shall include a clear and

comprehensive description of its utilization review procedures, including the procedures for appealing noncertifications and a statement of the rights and responsibilities of covered persons, including the voluntary nature of the appeal process, with respect to those procedures. An insurer shall also include in the certificate of coverage and the member handbook information about the availability of assistance from the Managed Care Patient Assistance Program, including the telephone number and address of the Program. An insurer shall include a summary of its utilization review procedures in materials intended for prospective covered persons. An insurer shall print on its membership cards a toll-free telephone number to call for utilization review purposes."

**SECTION 2.(a)** G.S. 58-50-62(c) reads as rewritten:

"(c) Grievance Procedures. – Every insurer shall have written procedures for receiving and resolving grievances from covered persons. A description of the grievance procedures shall be set forth in or attached to the certificate of coverage and member handbook provided to covered persons. The description shall include a statement informing the covered person that the grievance procedures are voluntary and shall also inform the covered person about the availability of the Commissioner's office for assistance, including the telephone number and address of the office. The description shall also inform the covered person about the availability of assistance from the Managed Care Patient Assistance Program, including the telephone number and address of the Program."

**SECTION 2.(b)** G.S. 58-50-62(e)(2) reads as rewritten:

"(e) First-Level Grievance Review. – A covered person or a covered person's provider acting on the covered person's behalf may submit a grievance.

...

(2) An insurer shall issue a written decision, in clear terms, to the covered person and, if applicable, to the covered person's provider, within 30 days after receiving a grievance. The person or persons reviewing the grievance shall not be the same person or persons who initially handled the matter that is the subject of the grievance and, if the issue is a clinical one, at least one of whom shall be a medical doctor with appropriate expertise to evaluate the matter. Except as provided in subdivision (3) of this subsection, if the decision is not in favor of the covered person, the written decision issued in a first-level grievance review shall contain:

- a. The professional qualifications and licensure of the person or persons reviewing the grievance.
- b. A statement of the reviewers' understanding of the grievance.
- c. The reviewers' decision in clear terms and the contractual basis or medical rationale in sufficient detail for the covered person to respond further to the insurer's position.
- d. A reference to the evidence or documentation used as the basis for the decision.
- e. A statement advising the covered person of his or her right to request a second-level grievance review and a description of the procedure for submitting a second-level grievance under this section.
- f. Notice of the availability of assistance from the Managed Care Patient Assistance Program, including the telephone number and address of the Program."

**SECTION 2.(c)** G.S. 58-50-62(f)(1) reads as rewritten:

"(f) Second-Level Grievance Review. – An insurer shall establish a second-level grievance review process for covered persons who are dissatisfied with the first-level grievance review decision or a utilization review appeal decision. A covered person or the covered person's provider acting on the covered person's behalf may submit a second-level grievance.

...

- (1) An insurer shall, within 10 business days after receiving a request for a second-level grievance review, make known to the covered person:
  - a. The name, address, and telephone number of a person designated to coordinate the grievance review for the insurer.
  - b. A statement of a covered person's rights, which include the right to request and receive from an insurer all information relevant to the case; attend the second-level grievance review; present his or her case to the review panel; submit supporting materials before and at the review meeting; ask questions of any member of the review panel; and be assisted or represented by a person of his or her choice, which person may be without limitation to: a provider, family member, employer representative, or attorney. If the covered person chooses to be represented by an attorney, the insurer may also be represented by an attorney.
  - c. The availability of assistance from the Managed Care Patient Assistance Program, including the telephone number and address of the Program.

..."

**SECTION 2.(d)** G.S. 58-50-62(h) reads as rewritten:

"(h) Second-Level Grievance Review Decisions. – An insurer shall issue a written decision to the covered person and, if applicable, to the covered person's provider, within seven business days after completing the review meeting. The decision shall include:

- (1) The professional qualifications and licensure of the members of the review panel.
- (2) A statement of the review panel's understanding of the nature of the grievance and all pertinent facts.
- (3) The review panel's recommendation to the insurer and the rationale behind that recommendation.
- (4) A description of or reference to the evidence or documentation considered by the review panel in making the recommendation.
- (5) In the review of a noncertification or other clinical matter, a written statement of the clinical rationale, including the clinical review criteria, that was used by the review panel to make the recommendation.
- (6) The rationale for the insurer's decision if it differs from the review panel's recommendation.
- (7) A statement that the decision is the insurer's final determination in the matter. In cases where the review concerned a noncertification and the insurer's decision on the second-level grievance review is to uphold its initial noncertification, a statement advising the covered person of his

or her right to request an external review and a description of the procedure for submitting a request for external review to the Commissioner of Insurance.

- (8) Notice of the availability of the Commissioner's office for assistance, including the telephone number and address of the Commissioner's office.
- (9) Notice of the availability of assistance from the Managed Care Patient Assistance Program, including the telephone number and address of the Program."

**SECTION 3.** G.S. 58-50-80(b)(3) reads as rewritten:

**"§ 58-50-80. Standard external review.**

...  
 "(b) Upon receipt of a request for an external review under subsection (a) of this section, the Commissioner shall, within 10 business days, complete all of the following:

- ...  
 (3) Notify in writing the covered person and the covered person's provider who performed or requested the service whether the request is complete and whether the request has been accepted for external review. If the request is complete and accepted for external review, the notice shall include a copy of the information that the insurer provided to the Commissioner pursuant to subdivision (b)(1) of this section, and inform the covered person that the covered person may submit to the assigned independent review organization in writing, within seven days after the receipt of the notice, additional information and supporting documentation relevant to the initial denial for the organization to consider when conducting the external review. If the covered person chooses to send additional information to the assigned independent review organization, then the covered person shall at the same time and by the same means, send a copy of that information to the insurer. The Commissioner shall also notify the covered person in writing of the availability of assistance from the Managed Care Patient Assistance Program, including the telephone number and address of the Program."

**SECTION 4.** This act becomes effective October 1, 2003, and applies to actions taken by the insurer under the subsections of G.S. 58-50-61, 58-50-62, and 58-50-80 amended by this act, on and after that date. G.S. 58-50-61, as amended by this act, applies to member handbooks printed after October 1, 2003.

In the General Assembly read three times and ratified this the 22<sup>nd</sup> day of May, 2003.

Became law upon approval of the Governor at 11:16 a.m. on the 31<sup>st</sup> day of May, 2003.

**H.B. 1078**

**Session Law 2003-106**

**AN ACT TO AUTHORIZE THE ADDITION OF MAYO RIVER STATE PARK TO THE STATE PARKS SYSTEM.**

Whereas, Section 5 of Article XIV of the Constitution of North Carolina states that it shall be a proper function of the State of North Carolina to acquire and

preserve park, recreational, and scenic areas, and in every other appropriate way to preserve as a part of the common heritage of this State, its open lands and places of beauty; and

Whereas, the 1987 General Assembly enacted the State Parks Act, which declares that the State of North Carolina offers unique archaeological, geologic, biological, scenic, and recreational resources, and that these resources are part of the heritage of the people of the State, which should be preserved and managed by the people for their use and for the use of their visitors and descendants; and

Whereas, the Mayo River in Rockingham County supports many rare species and possesses biological, geological, and scenic resources of statewide significance; Now, therefore,

*The General Assembly of North Carolina enacts:*

**SECTION 1.** The General Assembly authorizes the Department of Environment and Natural Resources to add Mayo River State Park to the State Parks System as provided by G.S. 113-44.14(b).

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

In the General Assembly read three times and ratified this the 21<sup>st</sup> day of May, 2003.

Became law upon approval of the Governor at 11:16 a.m. on the 31<sup>st</sup> day of May, 2003.

**S.B. 630**

**Session Law 2003-107**

**AN ACT TO CLARIFY THE DEFINITION OF A PROTECTIVE ORDER UNDER THE LAWS RELATING TO DOMESTIC VIOLENCE.**

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 50B-1 reads as rewritten:

**"§ 50B-1. Domestic violence; definition.**

(a) Domestic violence means the commission of one or more of the following acts upon an aggrieved party or upon a minor child residing with or in the custody of the aggrieved party by a person with whom the aggrieved party has or has had a personal relationship, but does not include acts of self-defense:

- (1) Attempting to cause bodily injury, or intentionally causing bodily injury; or
- (2) Placing the aggrieved party or a member of the aggrieved party's family or household in fear of imminent serious bodily injury or continued harassment, as defined in G.S. 14-277.3, that rises to such a level as to inflict substantial emotional distress; or
- (3) Committing any act defined in G.S. 14-27.2 through G.S. 14-27.7.

(b) For purposes of this section, the term "personal relationship" means a relationship wherein the parties involved:

- (1) Are current or former spouses;
- (2) Are persons of opposite sex who live together or have lived together;
- (3) Are related as parents and children, including others acting in loco parentis to a minor child, or as grandparents and grandchildren. For purposes of this subdivision, an aggrieved party may not obtain an order of protection against a child or grandchild under the age of 16;



- (4) Have a child in common;
- (5) Are current or former household members;
- (6) Are persons of the opposite sex who are in a dating relationship or have been in a dating relationship. For purposes of this subdivision, a dating relationship is one wherein the parties are romantically involved over time and on a continuous basis during the course of the relationship. A casual acquaintance or ordinary fraternization between persons in a business or social context is not a dating relationship.

(c) As used in this Chapter, the term 'protective order' includes any order entered pursuant to this Chapter upon hearing by the court or consent of the parties.'

**SECTION 2.** G.S. 50B-3 reads as rewritten:

**"§ 50B-3. Relief.**

(a) The court, including magistrates as authorized under G.S. 50B-2(c1), may grant any protective order ~~or approve any consent agreement~~ to bring about a cessation of acts of domestic violence. The orders ~~or agreements~~ may:

- (1) Direct a party to refrain from such acts;
- (2) Grant to a party possession of the residence or household of the parties and exclude the other party from the residence or household;
- (3) Require a party to provide a spouse and his or her children suitable alternate housing;
- (4) Award temporary custody of minor children and establish temporary visitation rights;
- (5) Order the eviction of a party from the residence or household and assistance to the victim in returning to it;
- (6) Order either party to make payments for the support of a minor child as required by law;
- (7) Order either party to make payments for the support of a spouse as required by law;
- (8) Provide for possession of personal property of the parties;
- (9) Order a party to refrain from doing any or all of the following:
  - a. Threatening, abusing, or following the other party,
  - b. Harassing the other party, including by telephone, visiting the home or workplace, or other means, or
  - c. Otherwise interfering with the other party;
- (10) Award attorney's fees to either party;
- (11) Prohibit a party from purchasing a firearm for a time fixed in the order;
- (12) Order any party the court finds is responsible for acts of domestic violence to attend and complete an abuser treatment program if the program is approved by the Domestic Violence Commission; and
- (13) Include any additional prohibitions or requirements the court deems necessary to protect any party or any minor child.

(b) Protective orders entered ~~or consent orders approved~~ pursuant to this Chapter shall be for a fixed period of time not to exceed one year. ~~Upon application of the aggrieved party, a judge may renew the original or any succeeding order for up to one additional year.~~ The court may renew a protective order for a fixed period of time not to exceed one year, including an order that previously has been renewed, upon a motion by the aggrieved party filed before the expiration of the current order. The court may renew a protective order for good cause. The commission of an act as defined in G.S. 50B-1(a) by the defendant after entry of the current order is not required for an order to be

renewed. Protective orders ~~entered or consent orders approved~~entered, including consent orders, shall not be mutual in nature except where both parties file a claim and the court makes detailed findings of fact indicating that both parties acted as aggressors, that neither party acted primarily in self-defense, and that the right of each party to due process is preserved.

(c) A copy of any order entered and filed under this Article shall be issued to each party. In addition, a copy of the order shall be issued promptly to and retained by the police department of the city of the victim's residence. If the victim does not reside in a city or resides in a city with no police department, copies shall be issued promptly to and retained by the sheriff, and the county police department, if any, of the county in which the victim resides.

(d) The sheriff of the county where a domestic violence order is entered shall provide for prompt entry of the order into the National Crime Information Center registry and shall provide for access of such orders to magistrates on a 24-hour-a-day basis. Modifications, terminations, and dismissals of the order shall also be promptly entered."

**SECTION 3.** G.S. 50B-4(c) reads as rewritten:

"(c) A valid protective order entered pursuant to this ~~section~~Chapter shall be enforced by all North Carolina law enforcement agencies without further order of the court."

**SECTION 4.** G.S. 50B-8 reads as rewritten:

**"§ 50B-8. Effect upon prosecution for violation of § 14-184 or other offense against public morals.**

The granting of a protective order, ~~approval of a consent agreement~~, prosecution for violation of this Chapter, or the granting of any other relief or the institution of any other enforcement proceedings under this Chapter shall not be construed to afford a defense to any person or persons charged with fornication and adultery under G.S. 14-184 or charged with any other offense against the public morals; and prosecution, conviction, or prosecution and conviction for violation of any provision of this Chapter shall not be a bar to prosecution for violation of G.S. 14-184 or of any other statute defining an offense or offenses against the public morals."

**SECTION 5.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 21<sup>st</sup> day of May, 2003.

Became law upon approval of the Governor at 11:17 a.m. on the 31<sup>st</sup> day of May, 2003.

## H.B. 1025

## Session Law 2003-108

### AN ACT TO AUTHORIZE THE ADDITION OF HAW RIVER STATE PARK TO THE STATE PARKS SYSTEM.

Whereas, Section 5 of Article XIV of the Constitution of North Carolina states that it shall be a proper function of the State of North Carolina to acquire and preserve park, recreational, and scenic areas, and in every other appropriate way to preserve as a part of the common heritage of this State, its open lands and places of beauty; and

Whereas, the 1987 General Assembly enacted the State Parks Act, which declares that the State of North Carolina offers unique archaeological, geologic, biological, scenic, and recreational resources, and that these resources are part of the heritage of the people of the State, which should be preserved and managed by the people for their use and for the use of their visitors and descendants; and

Whereas, the Haw River in Guilford and Rockingham Counties supports a large collection of wetlands, high quality upland forests, and rare plant and animal species and possesses biological, archaeological, and scenic resources of statewide significance; Now, therefore,

*The General Assembly of North Carolina enacts:*

**SECTION 1.** The General Assembly authorizes the Department of Environment and Natural Resources to add Haw River State Park to the State Parks System as provided by G.S. 113-44.14(b).

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

In the General Assembly read three times and ratified this the 21<sup>st</sup> day of May, 2003.

Became law upon approval of the Governor at 11:18 a.m. on the 31<sup>st</sup> day of May, 2003.

**H.B. 1177**

**Session Law 2003-109**

AN ACT TO PROVIDE THAT PHYSICIANS IN GOOD STANDING TO PRACTICE MEDICINE IN ANOTHER STATE MAY PRACTICE MEDICINE OR SURGERY AT A CAMP FOR THERAPEUTIC RECREATION FOR INDIVIDUALS WITH CHRONIC ILLNESSES UNDER CERTAIN RESTRICTED CONDITIONS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 90-18(c) reads as rewritten:

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

- ...
- (19) The practice of medicine or surgery by any physician who comes into this State to practice medicine or surgery at a camp that specializes in providing therapeutic recreation for individuals with chronic illnesses, as long as all the following conditions are satisfied:
- a. The physician provides documentation to the medical director of the camp that the physician is licensed and in good standing to practice medicine in another state.
  - b. The physician provides services only at the camp or in connection with camp events or camp activities that occur off the grounds of the camp.
  - c. The physician receives no compensation for the services.
  - d. The physician provides those services within this State for no more than 30 days per calendar year.
  - e. The camp has a medical director who holds an unrestricted license to practice medicine and surgery issued under this Article."

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

In the General Assembly read three times and ratified this the 21<sup>st</sup> day of May, 2003.

Became law upon approval of the Governor at 11:19 a.m. on the 31<sup>st</sup> day of May, 2003.

**H.B. 510****Session Law 2003-110**

AN ACT TO INCLUDE A VIOLATION OF G.S. 20-123.2 AS A LESSER INCLUDED OFFENSE IN A SPEEDING VIOLATION.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 20-141 is amended by adding a new subsection to read:

"(o) A violation of G.S. 20-123.2 shall be a lesser included offense in any violation of this section."

**SECTION 2.** This act becomes effective December 1, 2003. Prosecutions for offenses committed before the effective date of this act are not abated or affected by this act, and the statutes that would be applicable but for this act remain applicable to those prosecutions.

In the General Assembly read three times and ratified this the 21<sup>st</sup> day of May, 2003.

Became law upon approval of the Governor at 11:20 a.m. on the 31<sup>st</sup> day of May, 2003.

**H.B. 1134****Session Law 2003-111**

AN ACT TO EXTEND THE DEADLINE BY WHICH COASTAL HABITAT PROTECTION PLANS MUST BE ADOPTED.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Section 6.9 of S.L. 1997-400 reads as rewritten:

**"Section 6.9.** All of the Coastal Habitat Protection Plans required by G.S. 143B-279.8, as enacted by Section 3.1 of this act, shall be adopted no later than ~~1 July 2003~~ December 31, 2004. The Coastal Resources Commission, the Environmental Management Commission, and the Marine Fisheries Commission shall make the first report on progress in developing and implementing Coastal Habitat Protection Plans, as required by G.S. 143B-279.8(e), as enacted by Section 3.1 of this act, on or before 1 September 1999. The Secretary of Environment, Health, and Natural Resources shall make the first report on progress in developing and implementing Fishery Management Plans, as required by G.S. 113-182.1(f), as enacted by Section 3.4 of this act, on or before 1 September 1999."

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

In the General Assembly read three times and ratified this the 21<sup>st</sup> day of May, 2003.

Became law upon approval of the Governor at 11:26 a.m. on the 31<sup>st</sup> day of May, 2003.

**H.B. 22****Session Law 2003-112**

AN ACT TO AUTHORIZE THE DEPARTMENT OF TRANSPORTATION TO USE THE PORTION OF CONTRACT MAINTENANCE RESURFACING FUNDS ALLOCATED TO WIDENING EXISTING NARROW PAVEMENTS SCHEDULED FOR RESURFACING TO WIDEN ANY EXISTING NARROW PAVEMENTS AND TO AUTHORIZE THE DEPARTMENT OF TRANSPORTATION TO USE HIGHWAY TRUST FUND SECONDARY ROAD PAVING FUNDS ALLOCATED TO EACH COUNTY FOR THE ADDITIONAL PURPOSE OF SAFETY IMPROVEMENTS ON PAVED AND UNPAVED ROADS IN THE SAME COUNTY, AS RECOMMENDED BY THE JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 136-44.16 reads as rewritten:

"§ 136-44.16. ~~Resurfaced roads may be widened.~~ **Authorized use of contract maintenance resurfacing program funds.**

Of the contract maintenance resurfacing program funds appropriated by the General Assembly to the Department of Transportation, an amount not to exceed fifteen percent (15%) of the Board of Transportation's allocation of these funds may be used for widening existing narrow pavements ~~that are scheduled for resurfacing pavements.~~"

**SECTION 2.** G.S. 136-182 reads as rewritten:

"§ 136-182. **Supplement for secondary road construction.**

Funds are allocated from the Trust Fund to increase allocations for secondary road construction made under G.S. 136-44.2A so that all State-maintained unpaved secondary roads with a traffic vehicular equivalent of at least 50 vehicles a day can be paved by the ~~1998-99~~ 2009-2010 fiscal year. This supplement shall be discontinued when the Department of Transportation certifies that, with funds available from sources other than the Trust Fund, all State-maintained unpaved secondary roads, regardless of their traffic vehicular equivalent, can be paved during the following six years. If all the State-maintained roads in a county have been paved under G.S. 136-44.7, except those that have unavailable rights-of-way or for which environmental permits cannot be approved to allow for paving, then the funds may be used for safety improvements on the paved or unpaved secondary roads in that county. If the supplement is discontinued before the Trust Fund terminates, the funds that would otherwise be allocated under this section shall be added to the allocation from the Trust Fund for projects of the Intrastate System."

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

In the General Assembly read three times and ratified this the 21<sup>st</sup> day of May, 2003.

Became law upon approval of the Governor at 11:30 a.m. on the 31<sup>st</sup> day of May, 2003.

**S.B. 559****Session Law 2003-113**

AN ACT TO CLARIFY THE MOTOR VEHICLE DEALER FRANCHISE LAWS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Article 12 of Chapter 20 of the General Statutes is amended by adding a new section to read:

**"§ 20-293. Supplemental temporary license for sale of antique and specialty vehicles.**

Any dealer licensed as a motor vehicle dealer under this Article may apply to the Commissioner and receive, at no additional charge, a supplemental temporary license authorizing the off-premises sales of antique motor vehicles and specialty motor vehicles for a period not to exceed 10 consecutive calendar days. To obtain a temporary supplemental license for the off-premises sale of antique motor vehicles and specialty motor vehicles, the applicant shall:

- (1) Be licensed as a motor vehicle dealer under this Article.
- (2) Notify the applicable local office of the Division of the specific dates and location for which the license is requested.
- (3) Display a sign at the licensed location clearly identifying the dealer.
- (4) Keep and maintain the records required for the sale of motor vehicles under this Article.
- (5) Provide staff to work at the temporary location for the duration of the off-premises sale.
- (6) Meet any local government permitting requirements.
- (7) Have written permission from the property owner to sell at the location.

For purposes of this section, the term 'antique motor vehicle' shall mean any motor vehicle for private use manufactured at least 25 years prior to the current model year, and the term 'specialty motor vehicle' shall mean any model or series of motor vehicle for private use manufactured at least three years prior to the current model year of which no more than 5,000 vehicles were sold within the United States during the model year the vehicle was manufactured.

This section does not apply to a nonselling motor vehicle show or public display of new motor vehicles."

**SECTION 2.** G.S. 20-305(38) reads as rewritten:

**"§ 20-305. Coercing dealer to accept commodities not ordered; threatening to cancel franchise; preventing transfer of ownership; granting additional franchises; terminating franchises without good cause; preventing family succession.**

It shall be unlawful for any manufacturer, factory branch, distributor, or distributor branch, or any field representative, officer, agent, or any representative whatsoever of any of them:

- ...
- (38) Notwithstanding the terms, provisions, or conditions of any agreement, franchise, novation, waiver, or other written instrument, to assign or change a franchised new motor vehicle dealer's area of responsibility under the franchise arbitrarily or without due regard to the present or projected future pattern of motor vehicle sales and registrations within the dealer's ~~market~~-market and without having provided the affected dealer with written notice of the change in the dealer's area of responsibility and a detailed description of the change in writing by registered or certified mail, return receipt requested. A franchised new motor vehicle dealer who believes that a manufacturer, factory branch,

distributor, or distributor branch with whom the dealer has entered into a franchise has violated this subdivision may file a petition before the Commissioner as provided in G.S. 20-301(b) contesting the franchised new motor vehicle dealer's assigned area of responsibility. At the hearing before the Commissioner, the affected manufacturer, factory branch, distributor, or distributor branch shall have the burden of proving that all portions of its current or proposed area of responsibility for the petitioning franchised new motor vehicle dealer are reasonable in light of the present or projected future pattern of motor vehicle sales and registrations within the franchised new motor vehicle dealer's market. If a protest is or has been filed under G.S. 20-305(5) and the franchised new motor vehicle dealer's area of responsibility is included in the relevant market area under the protest, any protest filed under this subdivision shall be consolidated with that protest for hearing and joint disposition of all of the protests."

**SECTION 3.** G.S. 20-305(39) reads as rewritten:

**"§ 20-305. Coercing dealer to accept commodities not ordered; threatening to cancel franchise; preventing transfer of ownership; granting additional franchises; terminating franchises without good cause; preventing family succession.**

It shall be unlawful for any manufacturer, factory branch, distributor, or distributor branch, or any field representative, officer, agent, or any representative whatsoever of any of them:

...

(39) Notwithstanding the terms, provisions, or conditions of any agreement, franchise, novation, waiver, or other written instrument, to require, coerce, or attempt to coerce any of its franchised motor vehicle dealers in this State to purchase or lease one or more signs displaying the name of the manufacturer or franchised motor vehicle dealer upon unreasonable ~~and or~~ onerous terms or conditions or if installation of the additional signage would violate local signage or zoning laws to which the franchised motor vehicle dealer is subject. Any term, provision, or condition of any agreement, franchise, waiver, novation, or any other written instrument which is in violation of this subdivision shall be deemed null and void and without force and effect."

**SECTION 4.** G.S. 20-305 is amended by adding a new subdivision to read:

**"§ 20-305. Coercing dealer to accept commodities not ordered; threatening to cancel franchise; preventing transfer of ownership; granting additional franchises; terminating franchises without good cause; preventing family succession.**

It shall be unlawful for any manufacturer, factory branch, distributor, or distributor branch, or any field representative, officer, agent, or any representative whatsoever of any of them:

...

(40) Notwithstanding the terms, provisions, or conditions of any agreement or franchise, to require any dealer to floor plan any of the dealer's inventory or finance the acquisition, construction, or renovation of any

of the dealer's property or facilities by or through any financial source or sources designated by the manufacturer, factory branch, distributor, or distributor branch, including any financial source or sources that is or are directly or indirectly owned, operated, or controlled by the manufacturer, factory branch, distributor, or distributor branch."

**SECTION 5.** G.S. 20-305.1(b1) reads as rewritten:

"(b1) All claims made by motor vehicle dealers pursuant to this section for compensation for delivery, preparation, warranty and recall work including labor, parts, and other expenses, shall be paid by the manufacturer within 30 days after receipt of claim from the dealer. When any claim is disapproved, the dealer shall be notified in writing of the grounds for disapproval. Any claim not specifically disapproved in writing within 30 days after receipt shall be considered approved and payment is due immediately. No claim which has been approved and paid may be charged back to the dealer unless it can be shown that the claim was false or fraudulent, that the repairs were not properly made or were unnecessary to correct the defective condition, or the dealer failed to reasonably substantiate the claim. A manufacturer or distributor shall not deny a claim or reduce the amount to be reimbursed to the dealer as long as the dealer has provided reasonably sufficient documentation that the dealer:

- (1) Made a good faith attempt to perform the work in compliance with the written policies and procedures of the manufacturer; and
- (2) Actually performed the work.

A manufacturer may further not charge a dealer back subsequent to the payment of the claim unless a representative of the manufacturer has met in person at the dealership, or by telephone, with an officer or employee of the dealer designated by the dealer and explained in detail the basis for each of the proposed charge-backs and thereafter given the dealer's representative a reasonable opportunity at the meeting, or during the telephone call, to explain the dealer's position relating to each of the proposed charge-backs. In the event the dealer was selected for audit or review on the basis that some or all of the dealer's claims were viewed as excessive in comparison to average, mean, or aggregate data accumulated by the manufacturer, or in relation to claims submitted by a group of other franchisees of the manufacturer, the manufacturer shall, at or prior to the meeting or telephone call with the dealer's representative, provide the dealer with a written statement containing the basis or methodology upon which the dealer was selected for audit or review."

**SECTION 6.** If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

**SECTION 7.** This act becomes effective December 1, 2003.

In the General Assembly read three times and ratified this the 21<sup>st</sup> day of May, 2003.

Became law upon approval of the Governor at 5:10 p.m. on the 31<sup>st</sup> day of May, 2003.

**S.B. 704**

**Session Law 2003-114**

AN ACT TO ESTABLISH THE TRAUMATIC BRAIN INJURY ADVISORY COUNCIL.



*The General Assembly of North Carolina enacts:*

**SECTION 1.** Article 3 of Chapter 143B of the General Statutes is amended by adding the following new Part to read:

"Part 33. North Carolina Traumatic Brain Injury Advisory Council.

**"§ 143B-216.65. North Carolina Traumatic Brain Injury Advisory Council – creation and duties.**

There is established the North Carolina Traumatic Brain Injury Advisory Council in the Department of Health and Human Services. The Council shall have duties including the following:

- (1) Review how the term 'traumatic brain injury' is defined by State and federal regulations and to determine whether changes should be made to the State definition to include 'acquired brain injury' or other appropriate conditions.
- (2) Promote interagency coordination among State agencies responsible for services and support of individuals that have sustained traumatic brain injury.
- (3) Study the needs of individuals with traumatic brain injury and their families.
- (4) Make recommendations to the Governor, the General Assembly, and the Secretary of Health and Human Services regarding the planning, development, funding, and implementation of a comprehensive statewide service delivery system.
- (5) Promote and implement injury prevention strategies across the State.

**"§ 143B-216.66. North Carolina Traumatic Brain Injury Advisory Council – membership; quorum; compensation.**

(a) The Council shall consist of 29 members, appointed as follows:

- (1) Three members by the General Assembly, upon the recommendation of the President Pro Tempore of the Senate, as follows:
  - a. The Executive Director, or designee thereof, of the Brain Injury Association of North Carolina.
  - b. A nurse with expertise in trauma, neurosurgery, neuropsychology, physical medicine and rehabilitation, or emergency medicine.
  - c. A physician with expertise in trauma, neurosurgery, neuropsychology, physical medicine and rehabilitation, or emergency medicine.
- (2) Three members by the General Assembly, upon the recommendation of the Speaker of the House of Representatives, as follows:
  - a. The Chair of the Board, or designee thereof, of the Brain Injury Association of North Carolina.
  - b. A nurse with expertise in trauma, neurosurgery, neuropsychology, physical medicine and rehabilitation, or emergency medicine.
  - c. A physician with expertise in trauma, neurosurgery, neuropsychology, physical medicine and rehabilitation, or emergency medicine.
- (3) Eleven members by the Governor, as follows:
  - a. Three survivors of brain injury, one each representing the eastern, central, and western regions of the State.

- b. Three family members of persons with brain injury.
  - c. A brain injury service provider in private practice.
  - d. The director of an area program or county program of mental health, developmental disabilities, and substance abuse services.
  - e. The Executive Director, or designee thereof, of the North Carolina Academy of Trial Lawyers.
  - f. The Executive Vice President, or designee thereof, of the North Carolina Medical Society.
  - g. The President, or designee thereof, of the North Carolina Hospital Association.
- (4) Eight members by the Secretary of Health and Human Services, one from each of the following:
- a. The Division of Mental Health, Developmental Disabilities, and Substance Abuse Services.
  - b. The Division of Vocational Rehabilitation.
  - c. The Council on Developmental Disabilities.
  - d. The Division of Medical Assistance.
  - e. The Division of Facility Services.
  - f. The Division of Social Services.
  - g. The Office of Emergency Medical Services.
  - h. The Division of Public Health.
- (5) Two members by the Superintendent of Public Instruction, at least one of whom is from the Division of Exceptional Children.
- (6) One member by the Commissioner of Insurance.
- (7) One member by the Secretary of Administration representing veterans affairs.

(b) The terms of the initial members of the Council shall commence October 1, 2003. In his initial appointments, the Governor shall designate four members who shall serve terms of four years, four members who shall serve terms of three years, and three members who shall serve terms of two years. After the initial appointees' terms have expired, all members shall be appointed for a term of four years. No member appointed by the Governor shall serve more than two successive terms.

Any appointment to fill a vacancy on the Council created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term.

(c) The chair of the Council shall be designated by the Secretary of the Department of Health and Human Services from the Council members. The chair shall hold this office for not more than four years.

(d) The Council shall meet quarterly and at other times at the call of the chair. A majority of the Council shall constitute a quorum.

(e) Council members shall be reimbursed for expenses incurred in the performance of their duties in accordance with G.S. 138-5 and G.S. 138-6, as applicable.

(f) The Secretary of the Department of Health and Human Services shall provide clerical and other assistance as needed."

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

In the General Assembly read three times and ratified this the 22<sup>nd</sup> day of May, 2003.

Became law upon approval of the Governor at 6:17 p.m. on the 31<sup>st</sup> day of May, 2003.

**S.B. 471**

**Session Law 2003-115**

**AN ACT TO AMEND THE LAWS GOVERNING THE SELF-INSURANCE GUARANTY ASSOCIATION.**

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 97-133(a)(2) reads as rewritten:

"(2) Assess each member of the Association as follows:

- a. Each individual member self-insurer shall be annually assessed an amount equal to ~~one quarter of one percent (0.25%)~~ two percent (2%) of the annual gross premiums, as determined under G.S. 105-228.5(b), (b1), and (c), that would have been paid by that member self-insurer for workers' compensation insurance during the prior calendar year; and payment to the Association shall be made no later than ~~September 15~~ May 15 following the close of that calendar year. Where any such assessment is paid based in whole or in part upon estimates of annual gross premiums for the prior calendar year, there shall be made in the next year's assessment an adjustment of the assessment of such prior year based on actual audited annual gross premiums. Each group member self-insurer shall be annually assessed an amount equal to ~~one quarter of one percent (0.25%)~~ two percent (2%) of the annual gross premiums, as determined under G.S. 105-228.5(b), (b1), and (c), of the group member self-insurer during the prior calendar year; and payment to the Association shall be made no later than ~~September 15~~ May 15 following the close of that calendar year. Regardless of the size of the Fund, during its first 12 months of membership, no member self-insurer may discount or reduce this ~~one quarter of one percent (0.25%)~~ assessment. ~~Assessments paid by members pursuant to this subdivision shall be credited toward the tax paid by self insurers under Article 8B of Chapter 105 of the General Statutes.~~ two percent (2%) assessment. For the purpose of making the assessments authorized by this subsection and subsections (c) and (d) of this section, the Secretary of Revenue shall provide to the Association the self-insurer premium and payroll information as determined under G.S. 105-228.5(b), (b1) and (c), and the Commissioner shall provide to the Association the group self-insurer premium information reported to the Commissioner under G.S. 58-47-75 and G.S. 58-2-165.
- b. Each member self-insurer shall be notified of the assessment no later than 30 days before it is due.

- c. If a self-insurer is a member of the Association for less than a full calendar year, the annual gross premiums shall be adjusted by that portion of the year the self-insurer is not a member of the Association.
- d. If application of the contribution rates referenced in sub-subdivision a. of this subdivision would produce an amount in excess of the five million dollar (\$5,000,000) limits of the fund, an equitable proration may be made; provided that every self-insurer that becomes a member of the Association shall pay an initial assessment, in an amount established by the Board, regardless of the size of the fund at the time the member joins the Association."

**SECTION 2.** G.S. 97-133(a)(4) reads as rewritten:

"(4) Be obligated to the extent of covered claims occurring prior to the determination of the member self-insurer's insolvency, or occurring after such determination but prior to the obtaining by the self-insurer of workers' compensation insurance as otherwise required under this Chapter. ~~The Association shall pay claims against a self-insurer that are not or have not been paid as a result of a determination of insolvency or the institution of bankruptcy or receivership proceedings that occurred prior to the effective date of this Article.~~"

**SECTION 3.** G.S. 97-185 reads as rewritten:

"§ 97-185. ~~Deposits or surety bond.~~**Deposits; surety bonds; letters of credit.**

(a) Every self-insurer shall deposit with the Commissioner an amount ~~equal to twenty-five percent (25%)~~ not less than fifty percent (50%) of the self-insurer's total undiscounted outstanding claim liability per the most recent certification from a qualified actuary as required by G.S. 97-180(b), but not less than five hundred thousand dollars (\$500,000), or such other greater amount as the Commissioner prescribes based on, but not limited to, the financial condition of the self-insurer and the risk retained by the self-insurer.

~~(b) A self-insurer organized and authorized before the effective date of this section shall have 24 months from the effective date of this section to comply with this section.~~

(b1) Notwithstanding subsection (a) of this section, member self-insurers with a debt rating of BBB or better from Standard and Poor's Rating Service, a division of McGraw Hill, Inc., or an equivalent rating from another national rating agency shall deposit with the Commissioner an amount not less than twenty-five percent (25%) of the self-insurer's total undiscounted outstanding claim liability per the most recent certification from a qualified actuary as required by G.S. 97-180(b), but not less than five hundred thousand dollars (\$500,000). The Commissioner shall consider and may, in the Commissioner's discretion, increase or reduce the deposit to a greater or lesser percentage of the member self-insurer's claims liability based on the financial strength of the self-insurer and other financial information submitted by the self-insurer.

(c) Deposits received, changes to existing deposits, or deposits exchanged after the effective date of this section, shall comprise one or more of the following:

- (1) Interest-bearing bonds of the United States of America.
- (2) Interest-bearing bonds of the State of North Carolina, or of its cities or counties.

- (3) Certificates of deposit issued by any solvent bank domesticated in the State of North Carolina that have a maturity of one year or greater.
- (4) Surety bonds in a form acceptable to the Commissioner and issued by a corporate surety. A surety bond deposited pursuant to this subsection shall require that the surety reimburse the Commissioner, or his successors, assigns, or transferees, for any costs incurred in the collection of the proceeds of the surety bond, including reasonable attorneys' fees, and any costs incurred in administering the insolvent self-insurer's workers' compensation claims.
- (4a) Irrevocable letters of credit in a form acceptable to the Commissioner issued by a bank acceptable to the Commissioner. An irrevocable letter of credit deposited pursuant to this subsection shall require that the bank reimburse the Commissioner, or his successor, assigns, or transferees for any costs incurred in the collection of the proceeds of the letter of credit, including reasonable attorneys' fees.
- (4b) The reimbursement of attorneys' fees and collections cost provided for in subdivisions (4) and (4a) of this subsection shall be no greater than fifteen percent (15%) of the penal amount of the bond and shall not come from the proceeds of the bond or the letter of credit but shall be in addition to the proceeds of the bond or the letter of credit.
- (5) Any other investments that are approved by the Commissioner.

(d) All bonds or securities that are posted as a security deposit shall be valued annually at market value. If market value is less than face value, the Commissioner may require the self-insurer to post additional securities. In making this determination, the Commissioner shall consider the self-insurer's financial condition, the amount by which market value is less than face value, and the likelihood that the securities will be needed to provide benefits.

(e) Securities deposited under this section shall be assigned to the Commissioner, the Commissioner's successors, assigns, or trustees, on a form prescribed by the Commissioner in a manner that renders the securities negotiable by the Commissioner. If a self-insurer is deemed by the Commissioner to be in a hazardous financial condition, the Commissioner may sell or collect, or both, such amounts that will yield sufficient funds to meet the self-insurer's obligations under the Act. In the case of a letter of credit, the Commissioner may draw the full amount of a letter of credit if the letter of credit is not renewed within 90 days prior to its expiration or at any time that the bank issuing the letter of credit is no longer acceptable to the Commissioner. Interest accruing on any negotiable security deposited under this Article shall be collected and transmitted to the self-insurer if the self-insurer is not in a hazardous financial condition.

(f) No judgment creditor, other than a claimant entitled to benefits under the Act, may levy upon any deposits made under this section.

(g) Securities held by the Commissioner under this section may be exchanged or replaced by the self-insurer with other securities of like nature and amount as long as the self-insurer is not in a hazardous financial condition. No release shall be effectuated until replacement securities or bonds of an equal value have been substituted. Any surety bond may be exchanged or replaced with another surety bond that meets the requirements of this section if 90 days' advance written notice is given to the Commissioner. If a self-insurer ceases to self-insure or desires to replace securities with an acceptable surety bond or bonds, the self-insurer shall notify the Commissioner, and may recover all or a portion of the securities deposited with the Commissioner upon

posting instead an acceptable special release bond issued by a corporate surety in an amount equal to the total value of the securities. The special release bond shall cover all existing liabilities under the Act plus an amount to cover future loss development and shall remain in force until all obligations under the Act have been discharged fully.

(h) If a self-insurer ceases to self-insure, no deposits shall be released by the Commissioner until the self-insurer has discharged fully all of the self-insurer's obligations under the Act.

(i) An endorsement to a surety bond shall be filed with the Commissioner within 90 days after the effective date of the endorsement."

**SECTION 4.** Effective January 1, 2005, G.S. 97-185(a), as amended in Section 3 of this act, reads as rewritten:

"(a) Every self-insurer shall deposit with the Commissioner an amount ~~not less than fifty percent (50%)~~ not less than seventy-five percent (75%) of the self-insurer's total undiscounted outstanding claim liability per the most recent certification from a qualified actuary as required by G.S. 97-180(b), but not less than five hundred thousand dollars (\$500,000), or such other greater amount as the Commissioner prescribes based on, but not limited to, the financial condition of the self-insurer and the risk retained by the self-insurer."

**SECTION 5.** Effective January 1, 2006, G.S. 97-185(a), as amended in Sections 3 and 4 of this act, reads as rewritten:

"(a) Every self-insurer shall deposit with the Commissioner an amount ~~not less than seventy-five percent (75%)~~ not less than one hundred percent (100%) of the self-insurer's total undiscounted outstanding claim liability per the most recent certification from a qualified actuary as required by G.S. 97-180(b), but not less than five hundred thousand dollars (\$500,000), or such other greater amount as the Commissioner prescribes based on, but not limited to, the financial condition of the self-insurer and the risk retained by the self-insurer."

**SECTION 6.** G.S. 97-141 reads as rewritten:

**"§ 97-141. Stay of proceedings.**

All claims or proceedings under this Chapter to which the insolvent member self-insurer is a party either before the Industrial Commission or a court in this State and the running of all time periods against either the insolvent member self-insurer or the Association under this Chapter shall be stayed for 60 days from the later of the date of notice to the Association of the insolvency or the date the Association is notified of a claim or proceeding under this Chapter in order to permit the Association to investigate, prosecute, or defend properly any petition, claim, or appeal under this Chapter, provided that the payment of weekly compensation for incapacity is made whenever time periods or proceedings affecting the payment of weekly compensation are stayed."

**SECTION 7.** Section 3 of this act becomes effective January 1, 2004. Section 4 of this act becomes effective January 1, 2005. Section 5 of this act becomes effective January 1, 2006. Section 6 of this act is effective when this act becomes law and applies to claims filed on or after that date. The remainder of this act is effective when this act becomes law and applies to assessments made on or after that date.

In the General Assembly read three times and ratified this the 22<sup>nd</sup> day of May, 2003.

Became law upon approval of the Governor at 6:15 p.m. on the 1<sup>st</sup> day of June, 2003.

## S.B. 539

## Session Law 2003-116

AN ACT AMENDING THE LAW GOVERNING THE LIMITED PRACTICE OF OUT-OF-STATE ATTORNEYS-AT-LAW AND THE OPERATION OF THE COUNCIL AND DISCIPLINARY HEARING COMMISSION OF THE NORTH CAROLINA STATE BAR.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 84-4.1 reads as rewritten:

**"§ 84-4.1. Limited practice of out-of-state attorneys.**

Any attorney domiciled in another state, and regularly admitted to practice in the courts of record of that state and in good standing therein, having been retained as attorney for a party to any civil or criminal legal proceeding pending in the General Court of Justice of North Carolina, the North Carolina Utilities Commission, the North Carolina Industrial Commission, the Office of Administrative Hearings of North Carolina, or any administrative agency, may, on motion, be admitted to practice in that forum for the sole purpose of appearing for a client in the litigation. The motion required under this section shall be signed by the attorney and shall contain or be accompanied by:

- (1) The attorney's full name, post-office address, bar membership number, and status as a practicing attorney in another state.
- (2) A statement, signed by the client, setting forth the client's address and declaring that the client has retained the attorney to represent the client in the proceeding.
- (3) A statement that unless permitted to withdraw sooner by order of the court, the attorney will continue to represent the client in the proceeding until the final determination thereof, and that with reference to all matters incident to the proceeding, the attorney agrees to be subject to the orders and amenable to the disciplinary action and the civil jurisdiction of the General Court of Justice and the North Carolina State Bar in all respects as if the attorney were a regularly admitted and licensed member of the Bar of North Carolina in good standing.
- (4) A statement that the state in which the attorney is regularly admitted to practice grants like privileges to members of the Bar of North Carolina in good standing.
- (5) A statement to the effect that the attorney has associated and is personally appearing in the proceeding, with an attorney who is a resident of this State and is duly and legally admitted to practice in the General Court of Justice of North Carolina, upon whom service may be had in all matters connected with the legal proceedings, or any disciplinary matter, with the same effect as if personally made on the foreign attorney within this State.
- (6) A statement accurately disclosing a record of all that attorney's disciplinary history. Discipline shall include (i) public discipline by any court or lawyer regulatory organization, and (ii) revocation of any pro hac vice admission.

Compliance with the foregoing requirements does not deprive the court of the discretionary power to allow or reject the application."

**SECTION 2.** G.S. 84-23 reads as rewritten:

**"§ 84-23. Powers of Council.**

Subject to the superior authority of the General Assembly to legislate thereon by general law, and except as herein otherwise limited, the Council is hereby vested, as an agency of the State, with the authority to regulate the professional conduct of licensed attorneys. Among other powers, the Council shall administer this Article; take actions that are necessary to ensure the competence of lawyers; formulate and adopt rules of professional ethics and conduct; investigate and prosecute matters of professional misconduct; grant or deny petitions for reinstatement; resolve questions pertaining to membership status; arbitrate disputes concerning legal fees; certify legal specialists; determine whether a member is disabled; and formulate and adopt procedures for accomplishing these purposes. The Council or any committee thereof, including the Client Security Fund and the Disciplinary Hearing Commission or any committee thereof, shall have the authority to subpoena financial records of any licensed attorneys, attorneys whose licenses have been suspended, or disbarred attorneys, relating to any account into which client or fiduciary funds have been deposited. The Council may publish an official journal concerning matters of interest to the legal profession and may acquire, hold, rent, encumber, alienate, and otherwise deal with real or personal property in the same manner as any private person or corporation, subject only to the approval of the Governor and the Council of State as to the acquisition, rental, encumbering, leasing and sale of real property. The Council is authorized and empowered in its discretion to utilize the services of the Purchase and Contract Division of the Department of Administration for the procurement of personal property, in accordance with the provisions of Article 3 of Chapter 143 of the General Statutes; and to do all things necessary in the furtherance of the purposes of this Article as are not prohibited by law."

**SECTION 3.** G.S. 84-28.1(a) reads as rewritten:

"(a) There shall be a disciplinary hearing commission of the North Carolina State Bar which shall consist of ~~15~~20 members. ~~Ten~~Twelve of these members shall be members of the North Carolina State Bar, and shall be appointed by the Council. The other ~~five~~eight shall be citizens of North Carolina not licensed to practice law in this or any other state, ~~three~~four of whom shall be appointed by the Governor, ~~one~~two by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121, and ~~one~~two by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121. The Council shall designate one of its appointees as chair and another as vice-chair. The chair shall have actively practiced law in the courts of the State for at least 10 years. Except as set out herein, the terms of members of the commission are set at three years commencing on the first day of July of the year of their appointment. The Council, the Governor, and the General Assembly respectively, shall appoint members to fill unexpired terms when vacancies are created by resignation, disqualification, disability or death, except that vacancies in appointments made by the General Assembly may also be filled as provided by G.S. 120-122. No member may serve more than a total of seven years or a one-year term and two consecutive three-year terms: Provided, that any member or former member who is designated chair may serve one additional three-year term in that capacity. No member of the Council may be appointed to the commission."



**SECTION 4.** This act becomes effective October 1, 2003.

In the General Assembly read three times and ratified this the 22<sup>nd</sup> day of May, 2003.

Became law upon approval of the Governor at 6:20 p.m. on the 1<sup>st</sup> day of June, 2003.

**H.B. 462**

**Session Law 2003-117**

AN ACT TO INCLUDE DULY LICENSED MARRIAGE AND FAMILY THERAPISTS UNDER THE INSURANCE 'FREEDOM OF CHOICE' LAW AND UNDER THE PROFESSIONAL CORPORATIONS ACT.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 58-50-30 reads as rewritten:

"§ 58-50-30. **Right to choose services of optometrist, podiatrist, licensed clinical social worker, certified substance abuse professional, licensed professional counselor, dentist, chiropractor, psychologist, pharmacist, certified fee-based practicing pastoral counselor, advanced practice nurse, licensed marriage and family therapist, or physician assistant.**

(a1) Whenever any health benefit plan, subscriber contract, or policy of insurance issued by a health maintenance organization, hospital or medical service corporation, or insurer governed by Articles 1 through 67 of this Chapter provides for coverage for, payment of, or reimbursement for any service rendered in connection with a condition or complaint that is within the scope of practice of a duly licensed optometrist, a duly licensed podiatrist, a duly licensed dentist, a duly licensed chiropractor, a duly licensed clinical social worker, a duly certified substance abuse professional, a duly licensed professional counselor, a duly licensed psychologist, a duly licensed pharmacist, a duly certified fee-based practicing pastoral counselor, a duly licensed physician assistant, a duly licensed marriage and family therapist, or an advanced practice registered nurse, the insured or other persons entitled to benefits under the policy shall be entitled to coverage of, payment of, or reimbursement for the services, whether the services be performed by a duly licensed physician, or a provider listed in this subsection, notwithstanding any provision contained in the plan or policy limiting access to the providers. The policyholder, insured, or beneficiary shall have the right to choose the provider of services notwithstanding any provision to the contrary in any other statute, subject to the utilization review, referral, and prior approval requirements of the plan that apply to all providers for that service; provided that:

- (1) In the case of plans that require the use of network providers as a condition of obtaining benefits under the plan or policy, the policyholder, insured, or beneficiary must choose a provider of the services within the network; and
- (2) In the case of plans that require the use of network providers as a condition of obtaining a higher level of benefits under the plan or policy, the policyholder, insured, or beneficiary must choose a provider of the services within the network in order to obtain the higher level of benefits.

(a2) Whenever any policy of insurance governed by Articles 1 through 64 of this Chapter provides for certification of disability that is within the scope of practice of a duly licensed physician, a duly licensed physician assistant, a duly licensed optometrist,

a duly licensed podiatrist, a duly licensed dentist, a duly licensed chiropractor, a duly licensed clinical social worker, a duly certified substance abuse professional, a duly licensed professional counselor, a duly licensed psychologist, a duly certified fee-based practicing pastoral counselor, a duly licensed marriage and family therapist, or an advanced practice registered nurse, the insured or other persons entitled to benefits under the policy shall be entitled to payment of or reimbursement for the disability whether the disability be certified by a duly licensed physician, or a provider listed in this subsection, notwithstanding any provisions contained in the policy. The policyholder, insured, or beneficiary shall have the right to choose the provider of the services notwithstanding any provision to the contrary in any other statute; provided that for plans that require the use of network providers either as a condition of obtaining benefits under the plan or policy or to access a higher level of benefits under the plan or policy, the policyholder, insured, or beneficiary must choose a provider of the services within the network, subject to the requirements of the plan or policy.

(a3) Whenever any health benefit plan, subscriber contract, or policy of insurance issued by a health maintenance organization, hospital or medical service corporation, or insurer governed by Articles 1 through 67 of this Chapter provides coverage for medically necessary treatment, the insurer shall not impose any limitation on treatment or levels of coverage if performed by a duly licensed chiropractor acting within the scope of the chiropractor's practice as defined in G.S. 90-151 unless a comparable limitation is imposed on the medically necessary treatment if performed or authorized by any other duly licensed physician.

(b) For the purposes of this section, a "duly licensed psychologist" is a licensed psychologist who holds permanent licensure and certification as a health services provider psychologist issued by the North Carolina Psychology Board.

(c) For the purposes of this section, a "duly licensed clinical social worker" is a "licensed clinical social worker" as defined in G.S. 90B-3(2) and licensed by the North Carolina Social Work Certification and Licensure Board pursuant to Chapter 90B of the General Statutes.

(c1) For purposes of this section, a "duly certified fee-based practicing pastoral counselor" shall be defined only to include fee-based practicing pastoral counselors certified by the North Carolina State Board of Examiners of Fee-Based Practicing Pastoral Counselors pursuant to Article 26 of Chapter 90 of the General Statutes.

(c2) For purposes of this section, a "duly certified substance abuse professional" is a person certified by the North Carolina Substance Abuse Professional Certification Board pursuant to Article 5C of Chapter 90 of the General Statutes.

(c3) For purposes of this section, a "duly licensed professional counselor" is a person licensed by the North Carolina Board of Licensed Professional Counselors pursuant to Article 24 of Chapter 90 of the General Statutes.

(c4) For purposes of this section, a "duly licensed marriage and family therapist" is a person licensed by the North Carolina Marriage and Family Therapy Licensure Board pursuant to Article 18C of Chapter 90 of the General Statutes.

(d) Payment or reimbursement is required by this section for a service performed by an advanced practice registered nurse only when:

- (1) The service performed is within the nurse's lawful scope of practice;
- (2) The policy currently provides benefits for identical services performed by other licensed health care providers;
- (3) The service is not performed while the nurse is a regular employee in an office of a licensed physician;

- (4) The service is not performed while the registered nurse is employed by a nursing facility (including a hospital, skilled nursing facility, intermediate care facility, or home care agency); and
- (5) Nothing in this section is intended to authorize payment to more than one provider for the same service.

No lack of signature, referral, or employment by any other health care provider may be asserted to deny benefits under this provision, unless these plan requirements apply to all providers for that service.

For purposes of this section, an "advanced practice registered nurse" means only a registered nurse who is duly licensed or certified as a nurse practitioner, clinical specialist in psychiatric and mental health nursing, or nurse midwife.

(e) Payment or reimbursement is required by this section for a service performed by a duly licensed pharmacist only when:

- (1) The service performed is within the lawful scope of practice of the pharmacist;
- (2) The service performed is not initial counseling services required under State or federal law or regulation of the North Carolina Board of Pharmacy;
- (3) The policy currently provides reimbursement for identical services performed by other licensed health care providers; and
- (4) The service is identified as a separate service that is performed by other licensed health care providers and is reimbursed by identical payment methods.

Nothing in this subsection authorizes payment to more than one provider for the same service.

(f) Payment or reimbursement is required by this section for a service performed by a duly licensed physician assistant only when:

- (1) The service performed is within the lawful scope of practice of the physician assistant in accordance with rules adopted by the North Carolina Medical Board pursuant to G.S. 90-18.1;
- (2) The policy currently provides reimbursement for identical services performed by other licensed health care providers; and
- (3) The reimbursement is made to the physician, clinic, agency, or institution employing the physician assistant.

Nothing in this subsection is intended to authorize payment to more than one provider for the same service. For the purposes of this section, a "duly licensed physician assistant" is a physician assistant as defined by G.S. 90-18.1.

(g) A health maintenance organization, hospital or medical service corporation, or insurer governed by Articles 1 through 67 of this Chapter shall not exclude from participation in its provider network or from eligibility to provide particular covered services under the plan or policy any duly licensed physician or provider listed in subsection (a1) of this section, acting within the scope of the provider's license or certification under North Carolina law, solely on the basis of the provider's license or certification. Any health maintenance organization, hospital or medical service corporation, or insurer governed by Articles 1 through 67 of this Chapter that offers coverage through a network plan may condition participation in the network on satisfying written participation criteria, including credentialing, quality, and accessibility criteria. The participation criteria shall be developed and applied in a like manner consistent with the licensure and scope of practice for each type of provider.

Any health maintenance organization, hospital or medical service corporation, or insurer governed by Articles 1 through 67 of this Chapter that excludes a provider listed in subsection (a1) of this section from participation in its network or from eligibility to provide particular covered services under the plan or policy shall provide the affected listed provider with a written explanation of the basis for its decision. A health maintenance organization, hospital or medical service corporation, or insurer governed by Articles 1 through 67 of this Chapter shall not exclude from participation in its provider network a provider listed in subsection (a1) of this section acting within the scope of the provider's license or certification under North Carolina law solely on the basis that the provider lacks hospital privileges, unless use of hospital services by the provider on behalf of a policy holder, insured, or beneficiary reasonably could be expected.

(h) Nothing in this section shall be construed as expanding the scope of practice of any duly licensed physician or provider listed in subsection (a1) of this section."

**SECTION 2.** G.S. 90-270.48B is repealed.

**SECTION 3.** G.S. 55B-2(6) reads as rewritten:

"(6) The term "professional service" means any type of personal or professional service of the public which requires as a condition precedent to the rendering of such service the obtaining of a license from a licensing board as herein defined, and pursuant to the following provisions of the General Statutes: Chapter 83A, "Architects"; Chapter 84, "Attorneys-at-Law"; Chapter 93, "Public Accountants"; and the following Articles in Chapter 90: Article 1, "Practice of Medicine," Article 2, "Dentistry," Article 6, "Optometry," Article 7, "Osteopathy," Article 8, "Chiropractic," Article 9A, "Nursing Practice Act," with regard to registered nurses, Article 11, "Veterinarians," Article 12A, "Podiatrists," Article 18A, "Practicing Psychologists," Article 18C, "Marriage and Family Therapy Licensure," Article 18D, "Occupational Therapy," and Article 24, "Licensed Professional Counselors," of Chapter 90; Counselors"; Chapter 89C, "Engineering and Land Surveying"; Chapter 89A, "Landscape Architects"; Chapter 90B, "Social Worker Certification and Licensure Act" with regard to Certified [Licensed] Clinical Social Workers as defined by G.S. 90B-3; Chapter 89E, "Geologists"; Chapter 89B, "Foresters"; and Chapter 89F, "North Carolina Soil Scientist Licensing Act."

**SECTION 4.** G.S. 55B-14(c)(4) reads as rewritten:

"§ 55B-14. **Types of professional services.**

...  
(c) A professional corporation may also be formed by and between or among:

...  
(4) A physician, or a licensed psychologist, or both, and a certified clinical specialist in psychiatric and mental health nursing, a licensed clinical social worker, a licensed marriage and family therapist, a licensed professional counselor, or each of them, to render psychotherapeutic and related services that the respective stockholders are licensed, certified, or otherwise approved to provide."

**SECTION 5.** Sections 1 and 2 of this act become effective October 1, 2003, and apply to claims for payment or reimbursement for services rendered on or after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 22<sup>nd</sup> day of May, 2003.

Became law upon approval of the Governor at 6:22 p.m. on the 1<sup>st</sup> day of June, 2003.

**S.B. 124****Session Law 2003-118**

AN ACT TO EXEMPT THE CITY OF LUMBERTON FROM CERTAIN STATUTORY REQUIREMENTS RELATING TO THE CONSTRUCTION OF BUILDINGS TO BE USED BY INDUSTRIES LOCATING TO THE CITY.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** The City of Lumberton may contract for the design and renovation or construction of buildings to be used by industries locating to the city without being subject to the requirements of Article 8 of Chapter 143 of the General Statutes.

**SECTION 2.** This act is effective when it becomes law and expires December 31, 2004.

In the General Assembly read three times and ratified this the 2<sup>nd</sup> day of June, 2003.

Became law on the date it was ratified.

**H.B. 13****Session Law 2003-119**

AN ACT TO PROHIBIT HUNTING FROM THE RIGHT-OF-WAY OF PUBLIC ROADS IN TRANSYLVANIA COUNTY AND TO REQUIRE WRITTEN PERMISSION BEFORE HUNTING ON THE LAND OF ANOTHER IN TRANSYLVANIA COUNTY.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** It is unlawful to hunt, take, or kill any wild animal or wild bird from, on, or across the right-of-way of a public road, street, highway, or other public vehicular area in Transylvania County. For purposes of this section, "right-of-way" refers to the road surface from shoulder to shoulder. This section does not apply to public vehicular areas located in the Pisgah, Nantahala, or Toxaway game lands outside of designated safety zones.

**SECTION 2.** It is unlawful to hunt on the land of another without having on one's person the written permission, dated within the last 12 months, of the landowner or lessee, or the landowner's or lessee's designee.

**SECTION 3.** Violation of this act is a Class 3 misdemeanor.

**SECTION 4.** This act is enforceable by law enforcement officers of the Wildlife Resources Commission, by sheriffs and deputy sheriffs, and by peace officers with general subject matter jurisdiction.

**SECTION 5.** This act applies only to Transylvania County.

**SECTION 6.** This act becomes effective October 1, 2003, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 2<sup>nd</sup> day of June, 2003.

Became law on the date it was ratified.

**H.B. 153****Session Law 2003-120**

AN ACT AUTHORIZING THE CITY OF WINSTON-SALEM TO GIVE ANNUAL NOTICE TO CHRONIC VIOLATORS OF THE CITY'S GARBAGE AND TRASH ORDINANCE, AUTHORIZING THE CITY TO TAKE REMEDIAL ACTION REGARDING THE GARBAGE AND TRASH ORDINANCE WITHOUT FURTHER NOTICE THAT CALENDAR YEAR, AND CLARIFYING THE LANGUAGE AS TO WHAT CONSTITUTES A CHRONIC VIOLATOR UNDER THE CITY'S CURRENT ORDINANCE REGARDING OVERGROWN VEGETATION.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** A municipality may notify a chronic violator of the municipality's garbage and trash ordinance that, if the violator's property is found to be in violation of the ordinance, the municipality may, without further notice in the calendar year in which the notice is given, take action to remedy the violation, and the expense of the action shall become a lien upon the violator's property in accordance with G.S. 160A-193. The initial annual notice shall be served by registered or certified mail. Under this section, a chronic violator is a person who owns property whereupon, in the previous calendar year, the municipality gave a notice of violation at least three times under any provision of the garbage and trash ordinance.

**SECTION 2.** Section 1 of S.L. 1999-58 reads as rewritten:

"**Section 1.** A municipality may notify a chronic violator of the municipality's overgrown vegetation ordinance that, if the violator's property is found to be in violation of the ordinance, the municipality shall, without further notice in the calendar year in which notice is given, take action to remedy the violation and the expense of the action shall become a lien upon the property and shall be collected as unpaid taxes. The initial annual notice shall be served by registered or certified mail. A chronic violator is a person who owns property whereupon, in the previous calendar year, the municipality ~~took remedial action~~ gave a notice of violation at least three times under any provision of the overgrown vegetation ordinance."

**SECTION 3.** This act applies to the City of Winston-Salem only.

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

In the General Assembly read three times and ratified this the 2<sup>nd</sup> day of June, 2003.

Became law on the date it was ratified.

**H.B. 187****Session Law 2003-121**

AN ACT TO PROVIDE THAT THE DISTRIBUTION OF THE PROCEEDS FROM THE TOWN OF NORWOOD AND CITY OF ALBEMARLE ABC SYSTEMS SHALL BE IN ACCORDANCE WITH GENERAL LAW.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Section 5 of Chapter 722 of the 1965 Session Laws, as amended by Chapter 120 of the 1975 Session Laws and Chapter 710 of the 1993 Session Laws, is repealed.

**SECTION 2.** Paragraph E. of Section 6.1 of the Charter of the City of Albemarle, as amended by Chapter 259 of the 1979 Session Laws and Chapter 379 of the 1993 Session Laws, is repealed.

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

In the General Assembly read three times and ratified this the 2<sup>nd</sup> day of June, 2003.

Became law on the date it was ratified.

## **H.B. 197**

## **Session Law 2003-122**

### **AN ACT TO ALLOW THE BLADEN COUNTY BOARD OF EDUCATION TO DISPOSE OF CERTAIN PROPERTY AT PRIVATE SALE.**

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Notwithstanding G.S. 115C-518(a) or Article 12 of Chapter 160A of the General Statutes, the Bladen County Board of Education may convey to Bladen County Youth Focus Project, Inc., at private negotiation and sale, with or without monetary consideration, any or all of its right, title, and interest to the following described property:

BEGINNING at a point marked by a nail set where a Southeastwardly projection of the Northeastern margin of Newkirk Street intersects the center line of paved Martin Luther King Drive, said Point of Beginning being located along the center line of Martin Luther King Drive, North 38 degrees 56 minutes 44 seconds East, a distance of 31.10 feet from an old point marked by an old PK nail at the intersection of the paved center lines of Newkirk Street and Martin Luther King Drive; THENCE FROM SAID POINT OF BEGINNING and to and with the Northeastern margin of Newkirk Street, also the Southwestern line of Lot No. 1, as set out on map recorded in Map Book 2, Page 66, North 54 degrees 00 minutes 00 seconds West, a distance of 30.04 feet to an iron rod set; thence continuing along said margin of Newkirk Street, North 54 degrees 00 minutes 00 seconds West, a distance of 333.17 feet to a point marked by an iron rod set; thence with the Northwestern line of Lot No. 7, North 38 degrees 09 minutes 56 seconds East, a distance of 84.06 feet to an old point marked by an iron rod set; thence North 54 degrees 00 minutes 00 seconds West, with an old line, a distance of 198.76 feet to a new point in said line marked by an iron rod set; thence a new line North 36 degrees 49 minutes 44 seconds East, a distance of 186.01 feet to a point marked by an iron rod set; thence South 53 degrees 10 minutes 16 seconds East, a distance of 205.23 feet to a point marked by an iron rod set; thence North 36 degrees 49 minutes 44 seconds East, a distance of 200.00 feet to a point marked by an iron rod set; thence South 53 degrees 10 minutes 16 seconds East, a distance of 354.05 feet to a point marked by a nail set; thence continuing along said line, South 53 degrees 10 minutes 16 seconds East, a distance of 30.07 feet to a point marked by a nail set in the center of Martin Luther King Drive; thence with the center line of Martin Luther King Drive, South 40 degrees 46 minutes 44 seconds West, a distance of 378.76 feet to a point marked by a nail set; thence continue with the center line of Martin Luther King Drive, South 39 degrees 04 minutes 56 seconds West, a distance of 84.12 feet to the Point of

Beginning, containing 4.81 Acres, more or less, according to a Survey Map of same entitled "Map For BLADEN COUNTY BOARD OF EDUCATION - MARTIN LUTHER KING DRIVE SITE", dated April 1, 2003, by Lloyd R. Walker, Professional Land Surveyor.

**SECTION 2.** Notwithstanding G.S. 115C-518(a) or Article 12 of Chapter 160A of the General Statutes, the Bladen County Board of Education may convey to Spaulding-Monroe Association, Inc., at private negotiation and sale, with or without monetary consideration, any or all of its right, title, and interest to the following described property:

TRACT ONE:

Containing 0.182 acre, more or less as shown and described on a map or plat of the Addition to the Spaulding-Monroe School property, in the town of Bladenboro, dated July 12, 1974, by Stuart Gooden, Registered Surveyor, copy of which is recorded in Book 206, Page 113, Bladen County Registry and incorporated herein by reference, and being described by metes and bounds as follows:

BEGINNING at a steel pipe, the beginning corner of a 2.60 acre tract that was conveyed to the Board of Education by Acie Monroe and wife by deed dated 26 April, 1951, and recorded in Book 117, Page 224, of the Bladen County Registry, and runs thence with the line of said 2.60 acre tract, South 85 degrees 35 minutes East 87 feet to a concrete monument in the corner of a ditch; thence South 10 degrees 2 minutes East 74 feet to a concrete monument; thence South 84 degrees 26 minutes East 104.1 feet to a stake; thence South 23 degrees 38 minutes West 45 feet to a nail in the center line of N. C. Highway 211; thence with the center line of N. C. Highway 211 North 65 degrees 22 minutes West 11.6 feet to a nail; thence with the Eastern line of the Board of Education's 7.64 acre tract, North 17 degrees 10 minutes East 110.35 feet to the beginning.

This being the identical property described in a deed dated August 13, 1974, from Cassie Monroe, widow, and Tessie Horne, widow, to the Bladen County Board of Education recorded in Book 206, Page 112, Bladen County Registry.

TRACT TWO:

In the Town of Bladenboro, on the North side of and a short distance from State Highway #211, between it and run of Bryan Swamp; lying immediately East of that certain 7.64 acre tract or parcel of land particularly described in deed executed by Acie Monroe et al., surviving children and heirs at law of Calvin Monroe, deceased, to the Bladen County Board of Education under date of March 27, 1939, and recorded in Book 102, at Page 386, Bladen County Registry; and being a part of that certain tract or parcel of land allotted to Curley Monroe in a division by mutual partition of the estate lands of Calvin Monroe, deceased, made on or about May 12, 1923, known as Lot #7 in said division and containing 6 3/4 acres, more or less, concerning which see deeds recorded in Book 121, at Page 682, in Book 90 at Page 15, and in Book 121, at Page 645, Bladen County Registry. A particular description of the tract or parcel of land hereby conveyed, as surveyed by A.A. Robbins, Sr., Registered Surveyor, in November of the year 1950, is as follows, viz.:

BEGINNING at a stake in the second line of the 7.64 acre tract above referred to, North 17 1/4 degrees East 110.5 feet from the center line of State Highway #211 and at the point where said second line of said 7.64 acre tract is intersected by a ditch, and runs thence from said beginning corner, along said ditch South 85 1/2 degrees East 87 feet to a stake on the East edge of another ditch; thence along the East edge of the latter ditch



North 19 degrees East 203 feet to a bend in said ditch and its intersection with still another ditch; thence along the East edge of the same ditch North 22 degrees East 169 feet to another ditch; thence along said other ditch South 82 degrees East 92 feet to a stake on same; thence North 12 degrees East 550 feet to a stake in the run of Bryan Swamp; thence down the run of said swamp in a Westerly direction 100 feet to a stake in said run, the Northeast corner of the 7.64 acre tract above referred to; thence as a line of that tract South 22 1/2 degrees West 611 feet to a stake, a corner of said tract; thence as another line of that tract 17 1/4 degrees West 332 feet to the beginning corner, and containing 2.60 acres, more or less.

This being the identical property described in a deed dated April 26, 1951, from Acie Monroe and his wife, Cassie Monroe, to the Board of Education of Bladen County, recorded in Book 117, Page 224, Bladen County Registry.

#### TRACT THREE:

In the Town of Bladenboro in Bladenboro Township and being more specifically described as follows: That certain tract or parcel of land containing .7 acres more or less and being described as follows:

BEGINNING at a concrete corner, the Southeast corner of a .182 acre tract described in a deed to Bladen County Board of Education from Cassie Monroe et al., dated August 13, 1974, recorded in Book 206, Page 112, Bladen County Registry and runs thence with the Eastern line of said .182 acre tract North 10 degrees 2 minutes West 74 feet to a concrete monument in the corner of a ditch; thence North 16 degrees 30 minutes East as the ditch and with the Eastern line of a 2.60 acre tract described in Book 117 Page 224, Bladen County Registry, a distance of 203.0 feet to a bend in the ditch and its intersection with another ditch: thence along the East edge of the same ditch North 22 degrees East 169 feet to another ditch, thence South 85 degrees 12 minutes West 92 feet to a stake; thence in a Southwesterly direction a distance of approximately 460 feet to the point of beginning containing .7 acres more or less.

See deeds recorded in Book 117, Page 224, and in Book 206, Page 112, Bladen County Registry for further reference as to the location of the above described lands.

This being the identical property described in a deed dated August 26, 1977, from Cassie Monroe, widow, and Tessie Horne, widow, to the Bladen County Board of Education, recorded in Book 222, Page 728, Bladen County Registry.

#### TRACT FOUR:

BEGINNING at a point in the Charles Ivey line in or near the center of State Highway #211, the Southeast corner of Jessie B. Hall Estate, and runs thence with the old Ivey-Monroe line South 71 1/4 East 5.71 chains to a stake in said line and in the center of a ditch, at or near an oak tree and on the North side of said State Highway #211, same being the Southwest corner of Curley Monroe, also the Southeast corner of the Public School 8/10 acre lot; thence as a new line North 17 1/4 East 6.25 chains to a stake, a new corner, in Curley Monroe's line; thence with Curley Monroe's line North 22 1/2 East 9.17 chains to a stake in the run of Bryan Swamp, his corner; thence down the run of Bryan Swamp to a stake therein, the Northeast corner of Jessie B. Hall Estate, which on a straight line is South 85 1/4 West 5.70 chains distant from the last preceding corner; thence with the West line of Jessie B. Hall Estate South 22 1/2 West 13.17 chains to the beginning corner, and containing 7.64 acres, more or less.

Above boundaries include the two lots containing 8/10 and 1 2/10 acres, more or less, conveyed by Calvin Monroe to A. M. Kelly et al., County Board of Education, by deed

dated June 26, 1909, filed for record on July 6, 1909, and recorded in Bladen County Registry in Book 51, at Page 246; the lands described in deeds recorded in Bladen County Registry, in Book 90, Page 247, and in Book 97, Page 281; also 29/100 acre, more or less, on the Southeast thereof, being a part of the lands allotted to Curley Monroe in a division by mutual partition of the lands of Calvin Monroe, deceased, made on or about May 12, 1923, and known as Lot # 7 in said division.

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

In the General Assembly read three times and ratified this the 2<sup>nd</sup> day of June, 2003.

Became law on the date it was ratified.

**H.B. 214****Session Law 2003-123**

AN ACT MAKING THE TAX COLLECTOR OF MADISON COUNTY AN APPOINTED OFFICE RATHER THAN AN ELECTED OFFICE.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Chapter 100 of the 1951 Session Laws, as amended by Chapter 751 of the 1953 Session Laws and Chapter 251 of the 1991 Session Laws, is repealed. This repeal does not affect the existing term of office of the county tax collector in Madison County. Once the existing term of office of the county tax collector in Madison County has expired or once the office has become vacant for any reason, the Madison County Board of Commissioners shall appoint a county tax collector pursuant to G.S. 105-349.

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

In the General Assembly read three times and ratified this the 2<sup>nd</sup> day of June, 2003.

Became law on the date it was ratified.

**H.B. 295****Session Law 2003-124**

AN ACT TO AUTHORIZE THE TOWN OF BEECH MOUNTAIN TO REGULATE GOLF CARTS AND UTILITY VEHICLES.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Notwithstanding the provisions of G.S. 20-50 and G.S. 20-54, the Town of Beech Mountain may, by ordinance, regulate the operation of golf carts and utility vehicles on any public street or road within the Town. By ordinance, the Town may require the registration of golf carts and utility vehicles, specify the persons authorized to operate golf carts and utility vehicles, and specify required equipment, load limits, and the hours and methods of operation of the golf carts and utility vehicles.

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

In the General Assembly read three times and ratified this the 2<sup>nd</sup> day of June, 2003.

Became law on the date it was ratified.

**H.B. 396****Session Law 2003-125**

AN ACT TO CHANGE THE NAME OF THE EDGECOMBE COUNTY SCHOOL SYSTEM.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Section 1 of Chapter 404 of the 1991 Session Laws, as supplemented by Chapter 468 of the 1993 Session Laws, reads as rewritten:

**"Section 1. Effective Date.** The existing Edgecombe County School Administrative Unit (hereinafter referred to as the "county unit") and the existing Tarboro City School Administrative Unit (hereinafter referred to as the "city unit") shall be merged effective July 1, 1993. The resulting merged administrative unit shall be known as the Edgecombe County School Administrative Unit-Edgecombe County Public School System (hereinafter referred to as the "merged unit")."

**SECTION 2.** This act becomes effective July 1, 2003.

In the General Assembly read three times and ratified this the 2<sup>nd</sup> day of June, 2003.

Became law on the date it was ratified.

**H.B. 499****Session Law 2003-126**

AN ACT AMENDING THE CHARTER OF THE TOWN OF LANDIS TO EXTEND THE MAYOR'S AND ALDERMEN'S TERMS OF OFFICE FROM TWO TO FOUR YEARS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Section 3.3(a) of the Charter of the Town of Landis, being Chapter 213 of the 1975 Session Laws, reads as rewritten:

**"(a) The Beginning in 2003, the Mayor and members of the Board of Aldermen shall serve for terms of two years; provided, they shall serve until their successors are elected and qualified pursuant to the General Statutes of North Carolina four years, except as provided in this section. In 2003, the two candidates receiving the highest number of votes for Aldermen shall be elected to four-year terms, and the two candidates receiving the next highest number of votes for Aldermen shall be elected to two-year terms. In 2005, and quadrennially thereafter, two members shall be elected to four-year terms. In 2007, and quadrennially thereafter, two members shall be elected to four-year terms. The Mayor and members of the Board of Aldermen shall serve until their successors are elected and qualified pursuant to general law.**"

**SECTION 2.** Section 3.4 of the Charter of the Town of Landis, being Chapter 213 of the 1975 Session Laws, reads as rewritten:

**"Sec. 3.4. Organization of Board of Aldermen; Oaths of Office.** – The Board of Aldermen shall meet and organize for the transaction of business at the first regularly scheduled meeting of the Board in December following each ~~biennial~~ regular municipal election, after the results of such election have been certified pursuant to the General Statutes of North Carolina. Before entering upon their offices, the Mayor and each Alderman shall take, subscribe to and have entered upon the minutes of the Board the following oath of office:

"I, \_\_\_\_\_, do solemnly swear (or affirm) that I will support and maintain the Constitution and laws of the United States, and the Constitution and laws of North

Carolina not inconsistent therewith, and that I will faithfully discharge the duties of my office as \_\_\_\_\_, so help me, God."

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

In the General Assembly read three times and ratified this the 2<sup>nd</sup> day of June, 2003.

Became law on the date it was ratified.

**H.B. 582****Session Law 2003-127**

AN ACT AUTHORIZING CLAY COUNTY TO ENGAGE IN JOINT DEVELOPMENT ACTIVITIES WITH A CONTIGUOUS COUNTY IN AN ADJOINING STATE.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Notwithstanding any other provision of law, Clay County may, by proper resolution of its governing body, create a joint development agency, pursuant to Article 20 of Chapter 160A of the General Statutes, with a contiguous county in an adjoining state.

**SECTION 2.** G.S. 160A-462(a) reads as rewritten:

"(a) Units agreeing to an undertaking may establish a joint agency charged with any or all of the responsibility for the undertaking. The units may confer on the joint agency any power, duty, right, or function needed for the execution of the ~~undertaking, except that legal title to all real property necessary to the undertaking shall be held by the participating units individually, or jointly as tenants in common, in such manner and proportion as they may determine.~~ undertaking, including the authority to hold legal title to any real property necessary to the undertaking."

**SECTION 3.** This act applies to Clay County only.

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

In the General Assembly read three times and ratified this the 2<sup>nd</sup> day of June, 2003.

Became law on the date it was ratified.

**H.B. 679****Session Law 2003-128**

AN ACT AUTHORIZING THE CITY OF RALEIGH TO LIMIT THE CLEAR-CUTTING OF TREES IN BUFFER ZONES PRIOR TO DEVELOPMENT AND ALLOW FOR THE PROTECTION OF SPECIMEN TREES DURING THE DEVELOPMENT PROCESS, AND TO ALLOW WAKE COUNTY AND THE TOWN OF RUTHERFORDTON TO LIMIT THE CLEAR-CUTTING OF TREES IN BUFFER ZONES PRIOR TO DEVELOPMENT.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Section 4 of S.L. 2001-191 reads as rewritten:

"**SECTION 4.** This act shall apply only to the ~~City of Durham~~ Cities of Durham and Raleigh and the Towns of Cary, Garner, Morrisville, Knightdale, Fuquay-Varina, and Spencer and to property located within the municipality's corporate limits and extraterritorial planning jurisdiction under Article 19 of Chapter 160A of the General Statutes."

**SECTION 2.(a)** A county may adopt ordinances to regulate the removal and preservation of existing trees and shrubs prior to development within a perimeter buffer zone of up to 50 feet along public roadways and property boundaries adjacent to developed properties and up to 25 feet along property boundaries adjacent to undeveloped properties.

**SECTION 2.(b)** Ordinances adopted pursuant to this section shall:

- (1) Provide that the required buffer area shall not exceed twenty percent (20%) of the area of the tract, net of public road rights-of-way and any required conservation easements.
- (2) Provide that buffer zones that adjoin public roadways shall be measured from the edge of the public road right-of-way.
- (3) Provide that tracts of two acres or less, net of public road rights-of-way, that are zoned for single-family residential use are exempt from the requirements of the ordinances.
- (4) Provide that the ordinances are limited to situations where undeveloped property is planned or zoned in accordance with adopted planning and zoning regulations.
- (5) Provide that a survey of individual trees is not required.
- (6) Include reasonable provisions for access onto and within the subject property.
- (7) Exclude normal forestry activities on property taxed under the present-use value standard or conducted pursuant to a forestry management plan prepared or approved by a forester registered pursuant to Chapter 89B of the General Statutes. However, for such properties, a county may deny a building permit or refuse to approve a site or subdivision plan for a period of three years following completion of the harvest if all or substantially all of the perimeter buffer trees that should have been protected were removed from the tract of land for which the permit or plan approval is sought. A county may deny a permit or refuse to approve a site or subdivision plan for a period of two years if the owner replants the buffer area within 120 days of harvest with plant material that is consistent with buffer areas required under the county's ordinances.

**SECTION 2.(c)** Before adopting an ordinance under this section, the board of commissioners shall hold a public hearing on the proposed ordinance. Notice of the public hearing shall be given in accordance with G.S. 153A-323.

**SECTION 2.(d)** This section does not apply to areas located within the corporate limits or extraterritorial planning jurisdiction under Article 19 of Chapter 160A of the General Statutes of any municipality.

**SECTION 2.(e)** This section applies to the Town of Rutherfordton and to Wake County only.

**SECTION 3.** This act is effective when it becomes law, except that Section 2 becomes effective January 1, 2004.

In the General Assembly read three times and ratified this the 2<sup>nd</sup> day of June, 2003.

Became law on the date it was ratified.

**H.B. 89****Session Law 2003-129**

AN ACT TO REPEAL A LOCAL ACT APPLYING TO FORSYTH COUNTY CONCERNING FIRE AND RESCUE DISTRICTS, SO THE GENERAL LAW WILL APPLY.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Chapter 147 of the 1981 Session Laws is repealed.

**SECTION 2.** This act applies to Forsyth County only.

**SECTION 3.** This act becomes effective April 17, 1981.

In the General Assembly read three times and ratified this the 3<sup>rd</sup> day of June, 2003.

Became law on the date it was ratified.

**H.B. 351****Session Law 2003-130**

AN ACT TO AUTHORIZE THE CITY OF SALISBURY TO ADOPT AND ENFORCE ORDINANCES RELATING TO PARKING.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Article 2 of Chapter VII of the Charter of the City of Salisbury, as revised and consolidated by S.L. 1987-205, is amended by adding the following new section:

"Sec. 7.4. Parking Regulations and Violations.

(a) The City Council may provide by ordinance that each hour a vehicle remains illegally parked in an on-street parking space is a separate offense, and the violator may be given a ticket for each offense.

(b) The City Council may provide by ordinance that any vehicle that has been towed for a parking violation is to be held until the towing fee and penalties related to all outstanding parking tickets and parking penalties owed to the City are paid in full, or a bond is posted in the amount of the towing fee and all outstanding parking tickets and parking penalties. Payment of the towing fee and all outstanding parking tickets and parking penalties shall not constitute a waiver of a person's right to contest the towing or the outstanding parking tickets and parking penalties.

(c) The City Council may provide by ordinance for the use of wheel locks on illegally parked vehicles for which there are three or more outstanding, unpaid, and overdue parking tickets for a period of 90 days. The ordinance shall provide for notice or warning to be affixed to the vehicle, immobilization, towing, impoundment, appeal hearing, an immobilization fee not to exceed fifty dollars (\$50.00), and charges for towing and storage. The City shall not be responsible for any damage to an immobilized illegally parked vehicle resulting from unauthorized attempts to free or move that vehicle.

(d) Notwithstanding the provisions of Chapter 20 of the General Statutes or any other public or private local laws to the contrary, the City Council may adopt ordinances:

- (1) Prohibiting parking or standing of a vehicle in a space designated with a sign for handicapped persons when the vehicle does not display the distinguishing registration plate, windshield placard, or disabled veteran registration plate and that prohibit parking or standing of a

vehicle so as to obstruct a curb ramp or curb cut, as provided in G.S. 20-37.6(e).

- (2) Prohibiting parking or standing of a vehicle in front of or within a specified distance in either direction of a fire hydrant or the driveway entrance to any fire station, or in any area designated as a fire lane.
- (3) Prohibiting parking or standing of a vehicle in front of or within a specified distance from a public or private driveway.
- (4) Prohibiting parking or standing of a vehicle within a specified distance from an intersection or crosswalk.

(e) Any ordinance adopted pursuant to this section may be enforced by law enforcement officers and any person or persons authorized by ordinance, by the city manager, or by the chief of police, whether or not the vehicle is parked on public or private property."

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

In the General Assembly read three times and ratified this the 3<sup>rd</sup> day of June, 2003.

Became law on the date it was ratified.

### **H.B. 421**

### **Session Law 2003-131**

AN ACT TO MAKE VETERANS DAY A HOLIDAY FOR SCHOOL PERSONNEL.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 115C-84.2(b)(4) reads as rewritten:

"(b) Limitations. – The following limitations apply when developing the school calendar:

...

- (4) Veterans Day shall be a holiday for all public school personnel and for all students enrolled in the public schools."

**SECTION 2.** This act is effective when it becomes law and applies to all school years beginning with the 2005-2006 school year.

In the General Assembly read three times and ratified this the 27<sup>th</sup> day of May, 2003.

Became law upon approval of the Governor at 1:40 p.m. on the 4<sup>th</sup> day of June, 2003.

### **H.B. 627**

### **Session Law 2003-132**

AN ACT TO AUTHORIZE THE CITY OF GREENSBORO AND THE TOWN OF KERNERSVILLE TO EXPEND FUNDS ON ROADS OUTSIDE THE CORPORATE LIMITS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Chapter 160A of the General Statutes is amended by adding a new section to read:

**"§ 160A-296.1. Expenditure of funds for roads outside the corporate limits.**

A city may appropriate funds not otherwise limited as to use by law to construct roadways in areas outside its corporate limits and outside its extraterritorial planning and zoning jurisdiction only if those roadways are owned by the State and maintained

by the Department of Transportation. Notwithstanding the provisions of this section, a city may not construct roadways within the corporate limits of another municipality without that municipality's consent."

**SECTION 2.** This act applies to the City of Greensboro and the Town of Kernersville only.

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

In the General Assembly read three times and ratified this the 4<sup>th</sup> day of June, 2003.

Became law on the date it was ratified.

## H.B. 735

### Session Law 2003-133

AN ACT AUTHORIZING THE CITY OF DURHAM TO GIVE ANNUAL NOTICE TO CHRONIC VIOLATORS OF THE CITY'S REFUSE AND DEBRIS ORDINANCE WITHOUT FURTHER NOTICE THAT CALENDAR YEAR.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** A municipality may notify a chronic violator of the municipality's refuse and debris ordinance that, if the violator's property is found to be in violation of the ordinance, the municipality may, without further notice in the calendar year in which the notice is given, take action to remedy the violation, and the expense of the action shall become a lien upon the violator's property and shall be collected as unpaid taxes. The initial annual notice shall be served by registered or certified mail. Under this section, a chronic violator is a person who owns property whereupon, in the previous calendar year, the municipality took remedial action at least three times under the refuse and debris ordinance.

**SECTION 2.** Section 1 of this act applies to the City of Durham only.

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

In the General Assembly read three times and ratified this the 4<sup>th</sup> day of June, 2003.

Became law on the date it was ratified.

## H.B. 776

### Session Law 2003-134

AN ACT TO AMEND THE CHARTER OF THE CITY OF GREENSBORO TO GIVE THE CITY MANAGER GREATER AUTHORITY TO APPROVE CERTAIN CONTRACTS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Section 4.111 of the Charter of the City of Greensboro, being Chapter 1137 of the 1959 Session Laws, as amended by Section 6, Chapter 74 of the 1967 Session Laws; Section 7, Chapter 142 of the 1969 Session Laws; Section 17, Chapter 213 of the 1973 Session Laws; Section 4, Chapter 159 of the 1981 Session Laws; and Section 1, Chapter 6 of the 1993 Session Laws, reads as rewritten:

"Section 4.111. Contract procedures.

All contracts, except as otherwise provided for in this Charter, shall be authorized and approved by the Council and reduced to writing in order to be binding upon the City. All contracts and all ordinances or resolutions authorizing the same shall be drawn by the City Attorney or shall be approved by him before authorization by the Council.



A contract for the purchase of apparatus, supplies, materials or equipment or a contract for the performance of services may be approved, awarded and executed by the city manager on behalf of the city provided that the City Council shall have approved a sufficient appropriation in the annual budget for the current fiscal year. A contract for construction or demolition may be approved, awarded and executed by the City Manager on behalf of the City when the amount of such contract does not exceed ~~one hundred thousand dollars (\$100,000.00)~~ three hundred thousand dollars (\$300,000); provided that the City Council shall have approved a sufficient appropriation in the Annual Budget for the current fiscal year for the general purposes specified under the contract. Before any such contract is awarded, the City Manager shall comply with all other requirements set forth in G.S. 143-129, and G.S. 143-131, and said contract shall be subject to the approval of the City Attorney. Any person aggrieved by an award made pursuant to this Section may appeal to the City Council by filing notice thereof with the City Clerk immediately following a decision granting such award."

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

In the General Assembly read three times and ratified this the 4<sup>th</sup> day of June, 2003.

Became law on the date it was ratified.

**H.B. 900**

**Session Law 2003-135**

AN ACT MODIFYING THE DEFINITION OF "RESTAURANT" FOR ABC PERMITS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 18B-1000 reads as rewritten:

"§ **18B-1000. Definitions concerning establishments.**

The following requirements and definitions shall apply to this Chapter:

...

- (6) Restaurant. – An establishment substantially engaged in the business of preparing and serving meals. To qualify as a restaurant, an establishment's gross receipts from food and nonalcoholic beverages shall be not less than ~~forty percent (40%)~~ thirty percent (30%) of the total gross receipts from food, nonalcoholic beverages, and alcoholic beverages. A restaurant shall also have a kitchen and an inside dining area with seating for at least 36 people."

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

In the General Assembly read three times and ratified this the 29<sup>th</sup> day of May, 2003.

Became law upon approval of the Governor at 11:28 p.m. on the 4<sup>th</sup> day of June, 2003.

**H.B. 1175**

**Session Law 2003-136**

AN ACT ALLOWING FAIR HOUSING ORGANIZATIONS TO FILE COMPLAINTS WITH THE STATE HUMAN RELATIONS COMMISSION.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 41A-7(a) reads as rewritten:

"(a) Any person who claims to have been injured by an unlawful discriminatory housing practice or who reasonably believes that he will be irrevocably injured by an unlawful discriminatory housing practice may file a complaint with the North Carolina Human Relations Commission. A fair housing enforcement organization, as defined in regulations adopted under 42 U.S.C. § 3602 (1968), may file a complaint with the Commission on behalf of a person who claims to have been injured by or reasonably believes he will be irrevocably injured by an unlawful discriminatory housing practice. Complaints shall be in writing, shall state the facts upon which the allegation of an unlawful discriminatory housing practice is based, and shall contain such other information and be in such form as the Commission requires. Commission employees shall assist complainants in reducing complaints to writing and shall assist in setting forth the information in the complaint as may be required by the Commission. Within 10 days after receipt of the complaint, the Director of the Commission shall serve on the respondent a copy of the complaint and a notice advising the respondent of his procedural rights and obligations under this Chapter. Within 10 days after receipt of the complaint, the Director of the Commission shall serve on the complainant a notice acknowledging the filing of the complaint and informing the complainant of his time limits and choice of forums under this Chapter.

No complaint may be filed with the Commission under this section during any period in which the Commission is not certified by the Secretary of the United States Department of Housing and Urban Development in accordance with 42 U.S.C. § 3610(f) to have jurisdiction over the subject matter of the complaint. Provided, however, that during any such period in which the Commission is not certified, any person who claims to have been injured by an unlawful discriminatory practice or who reasonably believes that he will be irrevocably injured by an unlawful discriminatory housing practice may bring a civil action directly in superior court in accordance with the provisions of subsection (j) of this section, except that any such civil action shall be commenced within one year after the occurrence or termination of the alleged unlawful discriminatory housing practice."

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

In the General Assembly read three times and ratified this the 29<sup>th</sup> day of May, 2003.

Became law upon approval of the Governor at 11:28 p.m. on the 4<sup>th</sup> day of June, 2003.

## **H.B. 358**

## **Session Law 2003-137**

### **AN ACT TO INCREASE THE DAMAGE AMOUNTS ON DEFINED MOTOR VEHICLE ACCIDENTS.**

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 58-36-75(a) reads as rewritten:

"(a) The subclassification plan promulgated pursuant to G.S. 58-36-65(b) may provide for separate surcharges for major, intermediate, and minor accidents. A "major accident" is an at-fault accident that results in either (i) bodily injury or death or (ii) only property damage of ~~two thousand five hundred dollars (\$2,500)~~ three thousand dollars (\$3,000) or more. An "intermediate accident" is an at-fault accident that results in only property damage of more than ~~one thousand five hundred dollars (\$1,500)~~ one thousand eight hundred dollars (\$1,800) but less than ~~two thousand five hundred dollars~~

~~(\$2,500); three thousand dollars (\$3,000). A "minor accident" is an at-fault accident that results in only property damage of one thousand five hundred dollars (\$1,500) one thousand eight hundred dollars (\$1,800) or less. The subclassification plan may also exempt certain minor accidents from the Facility recoupment surcharge. The Bureau shall assign varying Safe Driver Incentive Plan point values and surcharges for bodily injury in at-fault accidents that are commensurate with the severity of the injury, provided that the point value and surcharge assigned for the most severe bodily injury shall not exceed the point value and surcharge assigned to a major accident involving only property damage."~~

**SECTION 2.** This act becomes effective January 1, 2004, and applies to accidents occurring on and after that date.

In the General Assembly read three times and ratified this the 29<sup>th</sup> day of May, 2003.

Became law upon approval of the Governor at 11:30 p.m. on the 4<sup>th</sup> day of June, 2003.

## H.B. 864

## Session Law 2003-138

### AN ACT INCREASING THE EFFICIENCY OF GUARANTEED ENERGY SAVINGS CONTRACTS FOR STATE GOVERNMENTAL UNITS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 143-64.17B reads as rewritten:

"§ 143-64.17B. **Guaranteed energy savings contracts.**

(a) A governmental unit may enter into a guaranteed energy savings contract with a qualified provider if all of the following apply:

- (1) The term of the contract does not exceed 12 years from the date of the installation and acceptance by the governmental unit of the energy conservation measures provided for under the contract.
- (2) The governmental unit finds that the energy savings resulting from the performance of the contract will equal or exceed the total cost of the contract.
- (3) The energy conservation measures to be installed under the contract are for an existing building.

...

(c) A qualified provider entering into a guaranteed energy savings contract under this Part shall provide ~~a bond to the governmental unit in the security to the governmental unit in the form acceptable to the Office of the State Treasurer and in an amount equal to one hundred percent (100%) of the total cost of the guaranteed energy savings contract to assure the provider's faithful performance. Any bonds required by this subsection shall be subject to the provisions of Article 3 of Chapter 44A of the General Statutes. If the savings resulting from a guaranteed energy savings contract are not as great as projected under the contract and all required shortfall payments to the governmental unit have not been made, the governmental unit may terminate the contract without incurring any additional obligation to the qualified provider.~~

...

(f) In the case of a State governmental unit, a qualified provider shall, when feasible, after the acceptance of the proposal of the qualified provider by the State governmental unit, conduct an investment grade audit. If the results of the audit are not

within ten percent (10%) of both the guaranteed savings contained in the proposal and the total proposal amount, either the State governmental unit or the qualified provider may terminate the project without incurring any additional obligation to the other party. However, if the State governmental unit terminates the project after the audit is conducted and the results of the audit are within ten percent (10%) of both the guaranteed savings contained in the proposal and the total proposal amount, the State governmental unit shall reimburse the qualified provider the reasonable cost incurred in conducting the audit, and the results of the audit shall become the property of the State governmental unit.

(g) In the case of a State governmental unit, a qualified provider shall provide an annual reconciliation statement based upon the results of the measurement and verification review. The statement shall disclose any shortfalls or surplus between guaranteed energy and operational savings specified in the guaranteed energy savings contract and actual, not stipulated, energy and operational savings incurred during a given guarantee year. The guarantee year shall consist of a 12-month term commencing from the time that the energy conservation measures become fully operational. A qualified provider shall pay the State governmental unit any shortfall in the guaranteed energy and operational savings after the total year savings have been determined. A surplus in any one year shall not be carried forward or applied to a shortfall in any other year."

**SECTION 2.** G.S. 143-64.17F reads as rewritten:

**"§ 143-64.17F. State agencies to use contracts when ~~feasible~~feasible; rules; recommendations.**

(a) State governmental units shall evaluate the use of guaranteed energy savings contracts in reducing energy costs and may use those contracts when feasible and practical.

(b) The Department of Administration, through the State Energy Office, shall adopt rules ~~for~~for: (i) agency evaluation of guaranteed energy savings contracts; (ii) establishing time periods for consideration of guaranteed energy savings contracts by the Office of State Budget and Management, the Office of the State Treasurer, and the Council of State, and (iii) setting measurements and verification criteria, including review, audit, and precertification. Prior to adopting any rules pursuant to this section, the Department shall consult with and obtain approval of those rules from the State Treasurer.

(c) The Department of Administration, through the State Energy Office, may provide to the Council of State its recommendations concerning any energy savings contracts being considered."

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

In the General Assembly read three times and ratified this the 29<sup>th</sup> day of May, 2003.

Became law upon approval of the Governor at 11:30 p.m. on the 4<sup>th</sup> day of June, 2003.

## H.B. 978

## Session Law 2003-139

AN ACT ALLOWING THE NORTH CAROLINA VETERINARY MEDICAL BOARD TO ENTER INTO AGREEMENTS WITH ORGANIZATIONS THAT HAVE DEVELOPED PROGRAMS FOR IMPAIRED VETERINARY PERSONNEL.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Article 11 of Chapter 90 of the General Statutes is amended by adding a new section to read:

**"§ 90-187.15. Board agreement for programs for impaired veterinary personnel.**

(a) The Board may enter into agreements with organizations that have developed programs for impaired veterinary personnel. Activities to be covered by these agreements may include investigation, review, and evaluation of records, reports, complaints, litigation, and other information about the practices or the practice patterns of veterinary personnel licensed or registered by the Board as these matters may relate to impaired veterinary personnel. Organizations having programs for impaired veterinary personnel may include a statewide supervisory committee or various regional or local components or subgroups.

(b) Agreements authorized under this section shall include provisions for the impaired veterinary personnel organizations to: (i) receive relevant information from the Board and other sources; (ii) conduct any investigation, review, or evaluation in an expeditious manner; (iii) provide assurance of confidentiality of nonpublic information and of the process; (iv) make reports of investigations and evaluations to the Board; and (v) implement any other related activities for operating and promoting a coordinated and effective process. The agreement shall include provisions assuring basic due process for veterinary personnel who become involved.

(c) Organizations entering into agreements with the Board shall establish and maintain a program for impaired veterinary personnel licensed or registered by the Board for the purpose of identifying, reviewing, and evaluating the ability of those veterinarians or veterinary technicians to function as veterinarians or veterinary technicians and provide programs for treatment and rehabilitation. The Board may provide funds for the administration of these impaired veterinary personnel peer review programs. The Board may adopt rules pursuant to Chapter 150B of the General Statutes to apply to the operation of impaired veterinary personnel programs, with provisions for: (i) definitions of impairment; (ii) guidelines for program elements; (iii) procedures for receipt and use of information of suspected impairment; (iv) procedures for intervention and referral; (v) arrangements for monitoring treatment, rehabilitation, posttreatment support, and performance; (vi) reports of individual cases to the Board; (vii) periodic reporting of statistical information; (viii) assurance of confidentiality of nonpublic information and of the process; and (ix) other necessary measures.

(d) Upon investigation and review of a veterinarian licensed by the Board or a veterinary technician registered with the Board, or upon receipt of a complaint or other information, an impaired veterinary personnel organization that enters into an agreement with the Board shall report to the Board detailed information about any veterinarian licensed or veterinary technician registered by the Board if:

- (1) The veterinarian or veterinary technician constitutes an imminent danger to the public, to patients, or to himself or herself.

- (2) The veterinarian or veterinary technician refuses to cooperate with the program, refuses to submit to treatment, or is still impaired after treatment and exhibits professional incompetence.
- (3) It reasonably appears that there are other grounds for disciplinary action.

(e) Any confidential information or other nonpublic information acquired, created, or used in good faith by an impaired veterinary personnel organization or the Board regarding a participant pursuant to this section shall remain confidential and shall not be subject to discovery or subpoena in a civil case, nor subject to disclosure as a public document by the Board pursuant to Chapter 132 of the General Statutes. No person participating in good faith in an impaired veterinary personnel program developed under this section shall be required in a civil case to disclose any information, including opinions, recommendations, or evaluations, acquired or developed solely in the course of participating in the program.

(f) Impaired veterinary personnel activities conducted in good faith pursuant to any program developed under this section shall not be grounds for civil action under the laws of this State, and the activities are deemed to be State-directed and sanctioned and shall constitute "State action" for the purposes of application of antitrust laws."

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

In the General Assembly read three times and ratified this the 29<sup>th</sup> day of May, 2003.

Became law upon approval of the Governor at 11:30 p.m. on the 4<sup>th</sup> day of June, 2003.

## H.B. 1048

## Session Law 2003-140

AN ACT TO MAKE REVISIONS TO THE JUVENILE CODE AS RECOMMENDED BY THE NORTH CAROLINA JUVENILE COURT IMPROVEMENT PROJECT.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 7B-304 is repealed.

**SECTION 2.** G.S. 7B-808 reads as rewritten:

"§ **7B-808. Predisposition ~~investigation and report.~~**

(a) The court shall proceed to the dispositional hearing upon receipt of sufficient social, medical, psychiatric, psychological, and educational information. No predisposition report shall be submitted to or considered by the court prior to the completion of the adjudicatory hearing. The court may proceed with the dispositional hearing without receiving a predisposition report if the court makes a written finding that a report is not necessary. ~~The court shall permit the guardian ad litem or juvenile to inspect any predisposition report to be considered by the court in making the disposition unless the court determines that disclosure would seriously harm the juvenile's treatment or would violate a promise of confidentiality. Opportunity to offer evidence in rebuttal shall be afforded the guardian ad litem or juvenile, and the juvenile's parent, guardian, or custodian at the dispositional hearing. The court may order counsel not to disclose parts of the report to the guardian ad litem or juvenile, or the juvenile's parent, guardian, or custodian if the court finds that disclosure would seriously harm the treatment of the juvenile or would violate a promise of confidentiality given to a source of information.~~

(b) The director of the department of social services shall prepare the predisposition report for the court containing the results of any mental health evaluation

of a juvenile under G.S. 7B-503, a placement plan, and a treatment plan the director deems appropriate to meet the juvenile's needs.

(c) The chief district court judge may adopt local rules or make an administrative order addressing the sharing of the reports among parties, including an order that prohibits disclosure of the report to the juvenile if the court determines that disclosure would not be in the best interest of the juvenile. Such local rules or administrative order may not:

- (1) Prohibit a party entitled by law to receive confidential information from receiving that information.
- (2) Allow disclosure of any confidential source protected by statute."

**SECTION 3.** G.S. 7B-1111(a)(6) reads as rewritten:

"(a) The court may terminate the parental rights upon a finding of one or more of the following:

- ...
- (6) That the parent is incapable of providing for the proper care and supervision of the juvenile, such that the juvenile is a dependent juvenile within the meaning of G.S. 7B-101, and that there is a reasonable probability that such incapability will continue for the foreseeable future. Incapability under this subdivision may be the result of substance abuse, mental retardation, mental illness, organic brain syndrome, or any other ~~similar cause or condition~~ condition that renders the parent unable or unavailable to parent the juvenile and the parent lacks an appropriate alternative child care arrangement.

...."

**SECTION 4.** G.S. 7B-1101 reads as rewritten:

**"§ 7B-1101. Jurisdiction.**

The court shall have exclusive original jurisdiction to hear and determine any petition or motion relating to termination of parental rights to any juvenile who resides in, is found in, or is in the legal or actual custody of a county department of social services or licensed child-placing agency in the district at the time of filing of the petition or motion. The court shall have jurisdiction to terminate the parental rights of any parent irrespective of the age of the parent. The parent has the right to counsel and to appointed counsel in cases of indigency unless the parent waives the right. The fees of appointed counsel shall be borne by the Office of Indigent Defense Services. In addition to the right to appointed counsel set forth above, a guardian ad litem shall be appointed in accordance with the provisions of G.S. 1A-1, Rule 17, to represent a parent in the following cases:

- (1) Where it is alleged that a parent's rights should be terminated pursuant to ~~G.S. 7B-1111(6); or~~ G.S. 7B-1111(6), and the incapability to provide proper care and supervision pursuant to that provision is the result of substance abuse, mental retardation, mental illness, organic brain syndrome, or another similar cause or condition.
- (2) Where the parent is under the age of 18 years.

The fees of the guardian ad litem shall be borne by the Office of Indigent Defense Services when the court finds that the respondent is indigent. In other cases the fees of the court-appointed guardian ad litem shall be a proper charge against the respondent if the respondent does not secure private legal counsel. Provided, that before exercising jurisdiction under this Article, the court shall find that it would have jurisdiction to make a child-custody determination under the provisions of G.S. 50A-201, 50A-203, or

50A-204. Provided, further, that the clerk of superior court shall have jurisdiction for adoptions under the provisions of G.S. 48-2-100 and Chapter 48 of the General Statutes generally."

**SECTION 5.** G.S. 7B-100 is amended by adding the following new subdivision to read:

"This Subchapter shall be interpreted and construed so as to implement the following purposes and policies:

- ...
- (5) To provide standards, consistent with the Adoption and Safe Families Act of 1997, P.L. 105-89, for ensuring that the best interests of the juvenile are of paramount consideration by the court and that when it is not in the juvenile's best interest to be returned home, the juvenile will be placed in a safe, permanent home within a reasonable amount of time."

**SECTION 6.** Article 4 of Chapter 7B of the General Statutes is amended by adding a new section to read:

**"§ 7B-408. Copy of petition and notices to guardian ad litem.**

Immediately after a petition has been filed alleging that a juvenile is abused or neglected, the clerk shall provide a copy of the petition and any notices of hearings to the local guardian ad litem office."

**SECTION 7.** G.S. 7B-1108(b) reads as rewritten:

"(b) If an answer or response denies any material allegation of the petition or motion, the court shall appoint a guardian ad litem for the juvenile to represent the best interests of the juvenile, unless the petition or motion was filed by the guardian ad litem pursuant to G.S. 7B-1103, or a guardian ad litem has already been appointed pursuant to G.S. 7B-601. A licensed attorney shall be appointed to assist those guardians ad litem who are not attorneys licensed to practice in North Carolina. The appointment, duties, and payment of the guardian ad litem shall be the same as in G.S. 7B-601 and ~~G.S. 7B-603~~-G.S. 7B-603, but in no event shall a guardian ad litem who is trained and supervised by the guardian ad litem program be appointed to any case unless the juvenile is or has been the subject of a petition for abuse, neglect, or dependency or with good cause shown the local guardian ad litem program consents to the appointment. The court shall conduct a special hearing after notice of not less than 10 days nor more than 30 days given by the petitioner or movant to the respondent who answered or responded, and the guardian ad litem for the juvenile to determine the issues raised by the petition and answer or motion and response.

Notice of the hearing shall be deemed to have been given upon the depositing thereof in the United States mail, first-class postage prepaid, and addressed to the respondent, and guardian ad litem or their counsel of record, at the addresses appearing in the petition or motion and responsive pleading."

**SECTION 8.** G.S. 7B-1003 reads as rewritten:

**"§ 7B-1003. Disposition pending appeal.**

Pending disposition of an appeal, the return of the juvenile to the custody of the parent or guardian of the juvenile, with or without conditions, may issue unless the court orders otherwise. When the court has found that a juvenile has suffered physical abuse and that the individual responsible for the abuse has a history of violent behavior, the court shall consider the opinion of the mental health professional who performed the evaluation under G.S. 7B-503(b) before returning the juvenile to the custody of that individual. For compelling reasons which must be stated in writing, the court may enter



a temporary order affecting the custody or placement of the juvenile as the court finds to be in the best interests of the juvenile or the State. The provisions of subsections ~~(b)~~, ~~(c)~~, and ~~(d)~~ (b) and (c) of G.S. 7B-905 shall apply to any order entered under this section which provides for the placement or continued placement of a juvenile in foster care."

**SECTION 9.(a)** G.S. 7B-600 is amended by adding a new subsection to read:

"(c) If the court appoints an individual guardian of the person pursuant to this section, the court shall verify that the person being appointed as guardian of the juvenile understands the legal significance of the appointment and will have adequate resources to care appropriately for the juvenile."

**SECTION 9.(b)** G.S. 7B-903 is amended by adding a new subsection to read:

"(c) If the court determines that the juvenile shall be placed in the custody of an individual other than the parents, the court shall verify that the person receiving custody of the juvenile understands the legal significance of the placement and will have adequate resources to care appropriately for the juvenile."

**SECTION 9.(c)** G.S. 7B-906 is amended by adding a new subsection to read:

"(g) If the court determines that the juvenile shall be placed in the custody of an individual other than the parents or appoints an individual guardian of the person pursuant to G.S. 7B-600, the court shall verify that the person receiving custody or being appointed as guardian of the juvenile understands the legal significance of the placement or appointment and will have adequate resources to care appropriately for the juvenile."

**SECTION 9.(d)** G.S. 7B-907 is amended by adding a new subsection to read:

"(f) If the court determines that the juvenile shall be placed in the custody of an individual other than the parents or appoints an individual guardian of the person pursuant to G.S. 7B-600, the court shall verify that the person receiving custody or being appointed as guardian of the juvenile understands the legal significance of the placement or appointment and will have adequate resources to care appropriately for the juvenile."

**SECTION 10.** G.S. 14-16.10(1) reads as rewritten:

"The following definitions apply in this Article:

- (1) Court officer. – Magistrate, clerk of superior court, acting clerk, assistant or deputy clerk, judge, or justice of the General Court of Justice; district attorney, assistant district attorney, or any other attorney designated by the district attorney to act for the State or on behalf of the district attorney; public defender or assistant defender; court reporter; juvenile court counselor as defined in ~~G.S. 7B-1501(18a)~~-G.S. 7B-1501(18a); any attorney or other individual employed by or acting on behalf of the department of social services in proceedings pursuant to Subchapter I of Chapter 7B of the General Statutes; any attorney or other individual appointed pursuant to G.S. 7B-601 or G.S. 7B-1108 or employed by the Guardian ad Litem Services Division of the Administrative Office of the Courts."

**SECTION 11.** Section 10 of this act becomes effective December 1, 2003, and applies to offenses committed on or after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 29<sup>th</sup> day of May, 2003.

Became law upon approval of the Governor at 11:31 p.m. on the 4<sup>th</sup> day of June, 2003.

**H.B. 352****Session Law 2003-141**

AN ACT TO AMEND THE LAW REGARDING DRUG SCREENING AND ASSESSMENT OF A CRIMINAL DEFENDANT FOR CHEMICAL DEPENDENCY, AS RECOMMENDED BY THE NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 15A-1343 is amended by adding a new subsection to read:

"(b3) Screening and assessing for chemical dependency. – A defendant ordered to submit to a period of residential treatment in the Drug Alcohol Recovery Treatment program (DART) operated by the Department of Correction must undergo a screening to determine chemical dependency. If the screening indicates the defendant is chemically dependent, the court shall order an assessment to determine the appropriate level of treatment. The assessment may be conducted either before or after the court imposes the condition, but participation in the program shall be based on the results of the assessment."

**SECTION 2.** G.S. 15A-1351(h) is repealed.

**SECTION 3.** G.S. 143B-262.1(h) reads as rewritten:

"(h) Admission priorities shall be established as follows:

- (1) ~~Court recommendation.~~
- (2) Evaluation and referral from reception and diagnostic centers.
- (3) General staff referral.
- (4) Self-referral.

(i) The Program shall include extensive follow-up after the period of intensive treatment. There will be specific plans for each departing inmate for follow-up, including active involvement with Alcoholics Anonymous, community resources, and personal sponsorship."

**SECTION 4.** This act becomes effective December 1, 2003, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 29<sup>th</sup> day of May, 2003.

Became law upon approval of the Governor at 11:32 p.m. on the 4<sup>th</sup> day of June, 2003.

**H.B. 821****Session Law 2003-142**

AN ACT TO SIMPLIFY THE PROCESS OF FILLING A VACANCY ON A PARTY TICKET.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 163-114 reads as rewritten:

**"§ 163-114. Filling vacancies among party nominees occurring after nomination and before election.**

If any person nominated as a candidate of a political party for one of the offices listed below (either in a primary or convention or by virtue of having no opposition in a primary) dies, resigns, or for any reason becomes ineligible or disqualified before the date of the ensuing general election, the vacancy shall be filled by appointment according to the following instructions:

Position

President  
Vice President

Vacancy is to be filled by appointment of national executive committee of political party in which vacancy occurs

Presidential elector or alternate elector  
Any elective State office  
United States Senator

Vacancy is to be filled by appointment of State executive committee of political party in which vacancy occurs

A district office, including:  
Member of the United States House of Representatives  
District Attorney  
State Senator in a multi-county senatorial district  
Member of State House of Representatives in a multi-county representative district

Appropriate district executive committee of political party in which vacancy occurs

State Senator in a single-county senatorial district  
Member of State House of Representatives in a single-county representative district  
Any elective county office

County executive committee of political party in which vacancy occurs, provided, in the case of the State Senator or State Representative in a single-county district where not all the county is located in that district, then in voting, only those members of the county executive committee who reside within the district shall vote

The party executive making a nomination in accordance with the provisions of this section shall certify the name of its nominee to the chairman of the board of elections, State or county, ~~charged with the duty of printing the ballots on which the name is to appear.~~ that has jurisdiction over the ballot item under G.S. 163-182.4. If at the time a nomination is made under this section the general election ballots have already been printed, the provisions of G.S. 163-165.3(c) shall apply. If a vacancy occurs in a

nomination of a political party and that vacancy arises from a cause other than death and the vacancy in nomination occurs more than 120 days before the general election, the vacancy in nomination may be filled under this section only if the appropriate executive committee certifies the name of the nominee in accordance with this paragraph at least 75 days before the general election.

In a county not all of which is located in one congressional district, in choosing the congressional district executive committee member or members from that area of the county, only the county convention delegates or county executive committee members who reside within the area of the county which is within the congressional district may vote.

In a county which is partly in a multi-county senatorial district or which is partly in a multi-county House of Representatives district, in choosing that county's member or members of the senatorial district executive committee or House of Representatives district executive committee for the multi-county district, only the county convention delegates or county executive committee members who reside within the area of the county which is within that multi-county district may vote."

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

In the General Assembly read three times and ratified this the 29<sup>th</sup> day of May, 2003.

Became law upon approval of the Governor at 11:32 p.m. on the 4<sup>th</sup> day of June, 2003.

## H.B. 560

## Session Law 2003-143

### AN ACT TO DISAPPROVE THE ADMINISTRATIVE RULES GOVERNING LIFE INSURANCE REPLACEMENT.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Pursuant to G.S. 150B-21.3(b), the following Life Insurance Replacement Rules that were adopted by the Department of Insurance and approved by the Rules Review Commission on December 19, 2002, are disapproved:

- (1) 11 NCAC 12.0601 – Purpose and Scope.
- (2) 11 NCAC 12.0602 – Definition of Replacement.
- (3) 11 NCAC 12.0603 – Other Definitions.
- (4) 11 NCAC 12.0604 – Exemptions.
- (5) 11 NCAC 12.0605 – Duties of Producers.
- (6) 11 NCAC 12.0606 – Duties of Existing Insurer.
- (7) 11 NCAC 12.0607 – Duties of Insurers That Use Producers.
- (8) 11 NCAC 12.0608 – Duties of Insurers With Respect to Direct Response Sales.
- (9) 11 NCAC 12.0609 – Violations and Penalties.
- (10) 11 NCAC 12.0611 – Notice Regarding Replacement.
- (11) 11 NCAC 12.0612 – Duties of Replacing Insurers That Use Producers.

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

In the General Assembly read three times and ratified this the 29<sup>th</sup> day of May, 2003.

Became law upon approval of the Governor at 11:34 p.m. on the 4<sup>th</sup> day of June, 2003.

## H.B. 829

## Session Law 2003-144

## AN ACT TO ADOPT THE NAIC MODEL STANDARD NONFORFEITURE LAW FOR INDIVIDUAL DEFERRED ANNUITIES.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Article 58 of Chapter 58 of the General Statutes is amended by adding a new section to read:

**"§ 58-58-61. Standard nonforfeiture law for individual deferred annuities.**

(a) Title. – This section is and may be cited as the Standard Nonforfeiture Law for Individual Deferred Annuities.

(b) Applicability. – This section does not apply to any:

(1) Reinsurance.

(2) Group annuity purchased under a retirement plan or plan of deferred compensation established or maintained by an employer, including a partnership or sole proprietorship, or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under section 408 of the Internal Revenue Code, as amended.

(3) Premium deposit fund.

(4) Variable annuity.

(5) Investment annuity.

(6) Immediate annuity.

(7) Deferred annuity contract after annuity payments have commenced.

(8) Reversionary annuity.

(9) Contract delivered outside this State through an agent or other representative of the company issuing the contract.

(c) Nonforfeiture Requirements. – In the case of contracts issued on or after the operative date of this section as defined in subsection (o) of this section, no contract of annuity, except as stated in subsection (b) of this section, shall be delivered or issued for delivery in this State unless it contains in substance the following provisions, or corresponding provisions that in the opinion of the Commissioner are at least as favorable to the contract holder, upon cessation of payment of considerations under the contract:

(1) That upon cessation of payment of considerations under a contract, or upon the written request of the contract owner, the company shall grant a paid-up annuity benefit on a plan stipulated in the contract of the value specified in subsections (g), (h), (i), (j), and (l) of this section.

(2) If a contract provides for a lump sum settlement at maturity or at any other time, that upon surrender of the contract at or before the commencement of any annuity payments, the company shall pay in lieu of a paid-up annuity benefit a cash surrender benefit of the amount specified in subsections (g), (h), (j), and (l) of this section. The company may reserve the right to defer the payment of the cash surrender benefit for a period not to exceed six months after demand for the payment with surrender of the contract after making written request and receiving written approval of the Commissioner. The

request shall address the necessity and equitability to all policyholders of the deferral.

- (3) A statement of the mortality table, if any, and interest rates used in calculating any minimum paid-up annuity, cash surrender, or death benefits that are guaranteed under the contract, together with sufficient information to determine the amounts of the benefits.
- (4) A statement that any paid-up annuity, cash surrender, or death benefits that may be available under the contract are not less than the minimum benefits required by any statute of the state in which the contract is delivered and an explanation of the manner in which the benefits are altered by the existence of any additional amounts credited by the company to the contract, any indebtedness to the company on the contract, or any prior withdrawals from or partial surrenders of the contract.

Notwithstanding the requirements of this subsection, a deferred annuity contract may provide that if no considerations have been received under the contract for a period of two full years and the portion of the paid-up annuity benefit at maturity on the plan stipulated in the contract arising from prior considerations paid would be less than twenty dollars (\$20.00) monthly, the company may at its option terminate the contract by payment in cash of the then-present value of the portion of the paid-up annuity benefit, calculated on the basis of the mortality table, if any, and interest rate specified in the contract for determining the paid-up annuity benefit, and by this payment shall be relieved of any further obligation under the contract.

(d) Minimum Values. – The minimum values specified in subsections (g), (h), (i), (j), and (l) of this section of any paid-up annuity, cash surrender, or death benefits available under an annuity contract shall be based upon minimum nonforfeiture amounts as defined in this section. The minimum nonforfeiture amount at any time at or before the commencement of any annuity payments shall be equal to an accumulation up to that time at rates of interest as indicated in subsection (e) of this section of the net considerations, as hereinafter defined, paid before that time, decreased by the sum of the following:

- (1) Any prior withdrawals from or partial surrenders of the contract accumulated at rates of interest as indicated in subsection (e) of this section.
- (2) An annual contract charge of fifty dollars (\$50.00), accumulated at rates of interest as indicated in subsection (e) of this section.
- (3) Any premium tax paid by the company for the contract, accumulated at rates of interest as indicated in subsection (e) of this section.
- (4) The amount of any indebtedness to the company on the contract, including interest due and accrued.

The net considerations for a given contract year used to define the minimum nonforfeiture amount shall be an amount equal to eighty-seven and one-half percent (87 1/2%) of the gross considerations credited to the contract during that contract year.

(e) The interest rate used in determining minimum nonforfeiture amounts shall be an annual rate of interest determined as the lesser of three percent (3%) per annum and the following, which shall be specified in the contract if the interest rate will be reset:

- (1) The five-year Constant Maturity Treasury Rate reported by the Federal Reserve as of a date, or average over a period, rounded to the nearest

one-twentieth of one percent (0.05%), specified in the contract no longer than 15 months before the contract issue date or redetermination date under subdivision (4) of this subsection.

- (2) Reduced by 125 basis points.
- (3) Where the resulting interest guarantee is not less than one percent (1%).
- (4) The interest rate shall apply for an initial period and may be redetermined for additional periods. The redetermination date, basis, and period, if any, shall be stated in the contract. The basis is the date or average over a specified period that produces the value of the five-year Constant Maturity Treasury Rate to be used at each redetermination date.

(f) During the period or term that a contract provides substantive participation in an equity indexed benefit, it may increase the reduction described in subdivision (e)(2) of this section by up to an additional 100 basis points to reflect the value of the equity index benefit. The present value at the contract issue date, and at each subsequent redetermination date, of the additional reduction shall not exceed the market value of the benefit. The Commissioner may require a demonstration that the present value of the additional reduction does not exceed the market value of the benefit. Absent a demonstration that is acceptable to the Commissioner, the Commissioner may disallow or limit the additional reduction. The Commissioner may adopt rules to implement the provisions of this subsection and to provide for further adjustments to the calculation of minimum nonforfeiture amounts for contracts that provide substantive participation in an equity index benefit and for other contracts for which the Commissioner determines adjustments are justified.

(g) Computation of Present Value. – Any paid-up annuity benefit available under a contract shall be such that its present value on the date annuity payments are to commence is at least equal to the minimum nonforfeiture amount on that date. Present value shall be computed using the mortality table, if any, and the interest rates specified in the contract for determining the minimum paid-up annuity benefits guaranteed in the contract.

(h) Calculation of Cash Surrender Value. – For contracts that provide cash surrender benefits, the cash surrender benefits available before maturity shall not be less than the present value as of the date of surrender of that portion of the maturity value of the paid-up annuity benefit that would be provided under the contract at maturity arising from considerations paid before the time of cash surrender reduced by the amount appropriate to reflect any prior withdrawals from or partial surrenders of the contract, such present value being calculated on the basis of an interest rate not more than one percent (1%) higher than the interest rate specified in the contract for accumulating the net considerations to determine maturity value, decreased by the amount of any indebtedness to the company on the contract, including interest due and accrued, and increased by any existing additional amounts credited by the company to the contract. In no event shall any cash surrender benefit be less than the minimum nonforfeiture amount at that time. The death benefit under such contracts shall be at least equal to the cash surrender benefit.

(i) Calculation of Paid-Up Annuity Benefits. – For contracts that do not provide cash surrender benefits, the present value of any paid-up annuity benefit available as a nonforfeiture option at any time before maturity shall not be less than the present value of that portion of the maturity value of the paid-up annuity benefit provided under the

contract arising from considerations paid before the time the contract is surrendered in exchange for, or changed to, a deferred paid-up annuity, the present value being calculated for the period before the maturity date on the basis of the interest rate specified in the contract for accumulating the net considerations to determine maturity value, and increased by any additional amounts credited by the company to the contract. For contracts that do not provide any death benefits before the commencement of any annuity payments, present values shall be calculated on the basis of the interest rate and the mortality table specified in the contract for determining the maturity value of the paid-up annuity benefit. However, in no event shall the present value of a paid-up annuity benefit be less than the minimum nonforfeiture amount at that time.

(j) Maturity Date. – For the purpose of determining the benefits calculated under subsections (h) and (i) of this section, in the case of annuity contracts under which an election may be made to have annuity payments commence at optional maturity dates, the maturity date shall be the latest date for which election is permitted by the contract but not later than the anniversary of the contract next following the annuitant's seventieth birthday or the tenth anniversary of the contract, whichever is later.

(k) Disclosure of Limited Death Benefits. – A contract that does not provide cash surrender benefits or does not provide death benefits at least equal to the minimum nonforfeiture amount before the commencement of any annuity payments shall include a statement in a prominent place in the contract that those benefits are not provided.

(l) Inclusion of Lapse of Time Considerations. – Any paid-up annuity, cash surrender, or death benefits available at any time, other than on the contract anniversary under any contract with fixed scheduled considerations, shall be calculated with allowance for the lapse of time and the payment of any scheduled considerations beyond the beginning of the contract year in which cessation of payment of considerations under the contract occurs.

(m) Proration of Values; Additional Benefits. – For a contract that provides within the same contract, by rider or supplemental contract provision, both annuity benefits and life insurance benefits that are in excess of the greater of cash surrender benefits or a return of the gross considerations with interest, the minimum nonforfeiture benefits shall be equal to the sum of the minimum nonforfeiture benefits for the annuity portion and the minimum nonforfeiture benefits, if any, for the life insurance portion computed as if each portion were a separate contract. Notwithstanding the provisions of subsections (g), (h), (i), (j), and (l) of this section, additional benefits payable in the event of total and permanent disability, as reversionary annuity or deferred reversionary annuity benefits, or as other policy benefits additional to life insurance, endowment, and annuity benefits, and considerations for all such additional benefits, shall be disregarded in ascertaining the minimum nonforfeiture amounts, paid-up annuity, cash surrender, and death benefits that may be required by this section. The inclusion of those benefits shall not be required in any paid-up benefits, unless the additional benefits separately would require minimum nonforfeiture amounts, paid-up annuity, cash surrender, and death benefits.

(n) Rules. – The Commissioner may adopt rules to implement the provisions of this section.

(o) Effective Date. – On and after October 1, 2003, a company may elect to apply the provisions of this section to annuity contracts on a contract form-by-contract form basis before October 1, 2004. In all other instances, this section shall become operative with respect to annuity contracts issued by the company on and after October 1, 2004."

**SECTION 2.** G.S. 58-58-60 is repealed.



**SECTION 3.** G.S. 58-7-95(s) reads as rewritten:

"(s) Except for ~~G.S. 58-58-60~~ G.S. 58-58-61 and G.S. 58-58-120 in the case of a variable annuity ~~contract and contract~~, G.S. 58-58-55, 58-58-120, and 58-58-140(1) in the case of a variable life insurance ~~policy policy~~, and except as otherwise provided in this section, all pertinent provisions of ~~the insurance laws of this State shall this Chapter~~ apply to separate accounts and contracts issued in connection ~~therewith~~, with separate accounts. Any individual variable life insurance contract, delivered or issued for delivery within this State, shall contain reinstatement and nonforfeiture provisions appropriate to ~~such a that~~ contract. Any group variable life insurance contract, delivered or issued for delivery within this State, shall contain grace provisions appropriate to ~~such a that~~ contract. Any individual variable annuity contract, delivered or issued for delivery within this State, shall contain reinstatement provisions appropriate to ~~such a that~~ contract."

**SECTION 4.** Sections 2 and 3 of this act become effective October 1, 2004. The remainder of this act becomes effective October 1, 2003.

In the General Assembly read three times and ratified this the 29<sup>th</sup> day of May, 2003.

Became law upon approval of the Governor at 11:34 p.m. on the 4<sup>th</sup> day of June, 2003.

**H.B. 55****Session Law 2003-145**

AN ACT TO AUTHORIZE FIRE DEPARTMENTS TO HONOR RETIRING OR DECEASED FIREFIGHTERS BY AWARDING THEIR FIRE HELMETS TO THEM OR TO A SURVIVING RELATIVE.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Chapter 153A of the General Statutes is amended by adding a new section to read:

**"§ 153A-236. Honoring deceased or retiring firefighters.**

A fire department established by a county pursuant to this Article may, in the discretion of the board of commissioners, award to a retiring firefighter or a surviving relative of a deceased firefighter, upon request, the fire helmet of the deceased or retiring firefighter, at a price determined in a manner authorized by the board. The price may be less than the fair market value of the helmet."

**SECTION 2.** Chapter 160A of the General Statutes is amended by adding a new section to read:

**"§ 160A-294.1. Honoring deceased or retiring firefighters.**

A fire department established by a municipality pursuant to this Article may, in the discretion of the governing body of the municipality, award to a retiring firefighter or a surviving relative of a deceased firefighter, upon request, the fire helmet of the deceased or retiring firefighter, at a price determined in a manner authorized by the governing body. The price may be less than the fair market value of the helmet."

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

In the General Assembly read three times and ratified this the 29<sup>th</sup> day of May, 2003.

Became law upon approval of the Governor at 11:35 p.m. on the 4<sup>th</sup> day of June, 2003.

AN ACT TO CHANGE THE METHOD BY WHICH CERTAIN MEMBERS ON THE NORTH CAROLINA BOARD OF NURSING ARE ELECTED OR APPOINTED, TO MAKE TECHNICAL CHANGES TO THE NURSING PRACTICE ACT, AND TO REQUIRE THAT HEALTH CARE FACILITIES VERIFY THE LICENSURE STATUS OF APPLICANTS SEEKING EMPLOYMENT AS NURSES.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 90-171.21 reads as rewritten:

"§ **90-171.21. Board of Nursing; composition; selection; vacancies; qualifications; term of office; compensation.**

(a) The Board shall consist of ~~15~~ 14 members. ~~Nine~~ Eight members shall be registered nurses. ~~Four~~ Three members shall be licensed practical nurses. ~~Two~~ Three members shall be representatives of the public.

(b) Selection. – The North Carolina Board of Nursing shall conduct an election each year to fill vacancies of nurse members of the Board scheduled to occur during the next year. Nominations of candidates for election of registered nurse members shall be made by written petition signed by not less than 10 registered nurses eligible to vote in the election. Nominations of candidates for election of licensed practical nurse members shall be made by written petition signed by not less than 10 licensed practical nurses eligible to vote in the election. Every licensed registered nurse holding an active license shall be eligible to vote in the election of registered nurse board members. Every licensed practical nurse holding an active license shall be eligible to vote in the election of licensed practical nurse board members. The list of nominations shall be filed with the Board after January 1 of the year in which the election is to be held and no later than midnight of the first day of April of such year. Before preparing ballots, the Board shall notify each person who has been duly nominated of ~~his~~ the person's nomination and request permission to enter ~~his~~ the person's name on the ballot. A member of the Board who is nominated ~~to succeed himself for reelection~~ and who does not withdraw ~~his~~ the member's name from the ballot is disqualified to participate in conducting the election. Elected members shall begin their term of office on January 1 of the year following their election.

Nominations of persons to serve as public members of the Board may be made to the Governor or the General Assembly by any citizen or group within the State. The Governor shall appoint ~~the two public members~~ one public member to the ~~Board~~ Board, and the General Assembly shall appoint two public members to the Board. Of the public members appointed by the General Assembly, one shall be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, and one shall be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives.

Board members shall be commissioned by the Governor upon their election or appointment.

(c) Vacancies. – All unexpired terms of Board members appointed by the General Assembly shall be filled within 45 days after the term is vacated. The Governor shall fill all other unexpired terms on the Board within 30 days after the term is vacated. For vacancies of registered nurse or licensed practical nurse members, the Governor shall appoint the person who received the next highest number of votes to those elected members at the most recent election for board members. ~~The Governor shall select the~~

~~public member to fill any vacancy of a public member.~~ Appointees shall serve the remainder of the unexpired term and until their successors have been duly elected or appointed and qualified.

(d) ~~Qualifications. – Three of the registered nurse members shall hold positions with primary responsibility in nursing education and shall hold baccalaureate or advanced degrees. Six shall hold positions with primary responsibility in providing nursing care to patients. Of the six registered nurse members with primary responsibility in providing nursing care to patients, two shall be employed by a hospital and at least one shall be a hospital nursing service director; one shall be employed by a physician licensed to practice medicine in North Carolina and engaged in the private practice of medicine; one shall be employed by a skilled or intermediate care facility; one shall be either a nurse practitioner, nurse anesthetist, nurse midwife, or clinical nurse specialist; and one shall be a community health nurse. If no nurse is nominated in one of the categories, the position shall be an at-large registered nursing position. Of the eight registered nurse members on the Board, one shall be a nurse administrator employed by a hospital or a hospital system, who shall be accountable for the administration of nursing services and not directly involved in patient care; one shall be an individual who meets the requirements to practice as a certified registered nurse anesthetist, a certified nurse midwife, a clinical nurse specialist, or a nurse practitioner; two shall be staff nurses, defined as individuals who are primarily involved in direct patient care regardless of practice setting; one shall be an at-large registered nurse who meets the requirements of sub-subdivisions (1)a., a1., and b. of this subsection, but is not currently an educator in a program leading to licensure or any other degree-granting program; and three shall be nurse educators. Of the three nurse educators, one shall be a practical nurse educator, one shall be an associate degree or diploma nurse educator, and one shall be a baccalaureate or higher degree nurse educator. All nurse educators shall meet the minimum education requirement as established by the Board's education program standards for nurse faculty. Candidates eligible for election to the Board as nurse educators are not eligible for election as the at-large member.~~

- (1) ~~All~~ Except for the at-large member, every registered nurse membersmember shall meet the following criteria:
  - a. ~~Hold a current-current, unencumbered~~ license to practice as a registered nurse in North Carolina.
  - a1. Be a resident of North Carolina.
  - b. ~~Have at least a minimum of five years' years of experience in nursing practice, nursing administration, and/or nursing education as a registered nurse.~~
  - c. ~~Have been engaged continuously in nursing practice, nursing administration, or nursing education~~ a position that meets the criteria for the specified Board position for at least three years immediately preceding election.
  - d. Show evidence that the employer of the registered nurse is aware that the nurse intends to serve on the Board.
- (2) ~~Licensed~~ Every licensed practical nurse members member shall meet the following criteria:
  - a. ~~Hold a current-current, unencumbered~~ license to practice as a licensed practical nurse in North Carolina.
  - a1. Be a resident of North Carolina.

- b. ~~Be a graduate of a board approved program for the preparation of practical nurses.~~
  - c. ~~Have at least a minimum of five years' years of experience as a licensed practical nurse.~~
  - d. ~~Have been engaged continuously in the position of a licensed practical nursing nurse for at least three years immediately preceding election.~~
  - e. Show evidence that the employer of the licensed practical nurse is aware that the nurse intends to serve on the Board.
- (3) ~~A public member shall not be a health care provider nor the spouse of a health care provider. Public members shall reasonably represent the population of the State of health services, employed in the health services field, or hold a vested interest at any level in the provision of health services as defined by the North Carolina Board of Ethics. No public member or person in the public member's immediate family as defined by G.S. 90-405(8) shall be currently employed as a licensed nurse or been previously employed as a licensed nurse.~~
- (4) The nurse practitioner, nurse anesthetist, nurse midwife, or clinical nurse specialist member shall be recognized by the Board as a registered nurse who meets the following criteria:
- a. Has graduated from or completed a graduate level advanced practice nursing education program accredited by a national accrediting body.
  - b. Maintains current certification or recertification from a national credentialing body approved by the Board or meets other requirements established by rules adopted by the Board.
  - c. Practices in a manner consistent with rules adopted by the Board and other applicable law.

(e) ~~Term. – The term of office for board members shall be three years. Members of the Board shall serve four-year staggered terms. No member shall serve more than two consecutive three year terms after July 1, 1981. four-year terms or eight consecutive years after January 1, 2005.~~

(f) ~~Removal. – The Board may remove any of its members for neglect of duty, incompetence, or unprofessional conduct. A member subject to disciplinary proceedings shall be disqualified from Board business until the charges are resolved.~~

(g) ~~Reimbursement. – Board members are entitled to receive compensation and reimbursement as authorized by G.S. 93B-5."~~

**SECTION 2.** G.S. 90-171.22 reads as rewritten:

"§ 90-171.22. **Officers.**

The officers of the Board shall be a ~~chairman, chair, who shall be a registered nurse,~~ a ~~vice-chairman, vice-chair,~~ and ~~such any~~ other officers as the Board ~~may deem~~ considers necessary. All officers shall be elected annually by the Board for terms of one year and shall serve until their successors have been elected and qualified."

**SECTION 3.** G.S. 90-171.23(b) reads as rewritten:

"(b) Duties, powers. The Board is empowered to:

- ...
- (8) ~~Prescribe~~ Establish standards to be met by the students, and to pertain to faculty, curricula, facilities, resources, and administration for any nursing program as provided in G.S. 90-171.38.

- (9) ~~Survey-Review~~ all nursing programs at least every ~~five-eight~~ years or more often as ~~deemed-considered~~ necessary by the Board or program director.

...."

**SECTION 4.** G.S. 90-171.38(a) reads as rewritten:

"(a) A nursing program may be operated under the authority of a general hospital, or an approved post-secondary educational institution. The Board shall establish, revise, or repeal standards for nursing programs. These standards shall specify program requirements, curricula, faculty, students, facilities, resources, administration, and describe the approval process. Any institution desiring to establish a nursing program shall apply to the Board and submit satisfactory evidence that it will meet the standards ~~prescribed-established~~ by the Board. Those standards shall be designed to ensure that graduates of those programs have the education necessary to safely and competently practice nursing. ~~The Board shall encourage the continued operation of all present programs that meet the standards approved by the Board.~~"

**SECTION 5.** G.S. 90-171.40 reads as rewritten:

"§ **90-171.40. Periodic surveys.Ongoing approval.**

The Board shall ~~designate persons to survey~~review all nursing programs in the State at least every ~~five-eight~~ years or more often as ~~deemed-considered~~ necessary. ~~Written reports of such surveys shall be submitted to the Board.~~ If the Board determines that any approved nursing program does not meet or maintain the standards required by the Board, ~~the Board shall give written notice thereof in writing~~ specifying the deficiencies ~~shall be given immediately~~ to the institution responsible for the program. The Board shall withdraw approval from a program ~~which that~~ fails to correct deficiencies within a reasonable time. The Board shall publish annually a list of nursing programs in this State showing their approval status."

**SECTION 6.** Article 9A of Chapter 90 of the General Statutes is amended by adding a new section to read:

"§ **90-171.43A. Mandatory employer verification of licensure status.**

(a) Before hiring a registered nurse or a licensed practical nurse in North Carolina, a health care facility shall verify that the applicant has a current, valid license to practice nursing pursuant to G.S. 90-171.43.

(b) For purposes of this section, 'health care facility' means:

- (1) Facilities described in G.S. 131E-256(b).
- (2) Public health departments, physicians' offices, ambulatory care facilities, and rural health clinics."

**SECTION 7.** The terms of members serving on the Board of Nursing on December 31, 2004, expire on that date. To establish staggered terms for the appointments of public members made pursuant to G.S. 90-171.21(b), as enacted in Section 1 of this act, the Governor shall appoint one member for a four-year term, the General Assembly, upon the recommendation of the President Pro Tempore of the Senate, shall appoint one member for a three-year term, and the General Assembly, upon the recommendation of the Speaker of the House of Representatives, shall appoint one member for a two-year term.

To stagger terms for members elected to the Board, the Board shall conduct an election in 2004 pursuant to G.S. 90-171.21(b) to elect members as follows:

- (1) An at-large registered nurse and a licensed practical nurse, to serve for a one-year term.

- (2) A staff registered nurse, a registered nurse who is an associate degree or diploma nurse educator, and a licensed practical nurse, each to serve for a two-year term.
- (3) A registered nurse who is a baccalaureate or higher degree nurse educator, a registered nurse administrator employed by a hospital or a hospital system, and a licensed practical nurse, each to serve for a three-year term.
- (4) A staff registered nurse, a registered nurse who is a practical nurse educator, and either a certified registered nurse anesthetist, a certified nurse midwife, a clinical nurse specialist, or a nurse practitioner, each to serve for a four-year term.

All members appointed and elected to the Board pursuant to this section shall begin serving their terms on January 1, 2005. After staggered terms have been established, all subsequent appointments and elections to the Board shall be for four-year terms. For the purpose of initial application of the provisions of G.S. 90-171.21(e) that limit members to eight consecutive years of service, consecutive service as of December 31, 2004, shall count, and if the member reaches the eight-year maximum during a term of office, that person is not eligible to continue in office and a vacancy is created to be filled for the remainder of the unexpired term.

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

In the General Assembly read three times and ratified this the 29<sup>th</sup> day of May, 2003.

Became law upon approval of the Governor at 11:36 p.m. on the 4<sup>th</sup> day of June, 2003.

## S.B. 620

## Session Law 2003-147

AN ACT TO GIVE LOCAL BOARDS OF EDUCATION ADDITIONAL PURCHASING FLEXIBILITY AND TO ENCOURAGE THEM TO USE THE NC E-PROCUREMENT SERVICE.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 115C-522(a) reads as rewritten:

"(a) ~~Except as provided in G.S. 115C-522.1, it~~ shall be the duty of local boards of education to purchase or exchange all supplies, ~~equipment and materials in accordance with contracts made by or with the approval of the Department of Administration~~ equipment, and materials, and these purchases shall be made in accordance with Article 8 of Chapter 143 of the General Statutes. These purchases may be made from contracts made by the Department of Administration. Title to instructional supplies, office supplies, fuel and janitorial supplies, enumerated in the current expense fund budget and purchased out of State funds, shall be taken in the name of the local board of education which shall be responsible for the custody and replacement: Provided, that no contracts shall be made by any local school administrative unit for purchases unless provision has been made in the budget of the unit to pay for the purchases, unless surplus funds are on hand to pay for the purchases, or unless the contracts are made pursuant to G.S. 115C-47(28) and G.S. 115C-528 and adequate funds are available to pay in the current fiscal year the sums obligated for the current fiscal year, ~~and in order to protect the State purchase contractor, it is made the duty of the governing authorities of the local units to pay for these purchases promptly~~

and in accordance with the terms of the contract of purchase year. The State Board of Education shall adopt rules regarding equipment standards for supplies, equipment, and materials related to student transportation. The State Board may adopt guidelines for any commodity that needs safety features. If a commodity that needs safety features is available on statewide term contract, any guidelines adopted by the State Board must at a minimum meet the safety standards of the statewide term contract.

- (1) Where competition is available, local school administrative units may utilize the:
  - a. E-Quote service of the NC E-Procurement system as one means of solicitation in seeking informal bids for purchases subject to the bidding requirements of G.S. 143-131; and
  - b. Division of Purchase and Contract's electronic Interactive Purchasing System as one means of advertising formal bids on purchases subject to the bidding requirements of G.S. 143-129 and applicable rules regarding advertising. This sub-subdivision does not prohibit a local school administrative unit from using other methods of advertising.
- (2) In order to provide an efficient transition of purchasing procedures, the Secretary of the Department of Administration and the local school administrative units shall establish a local school administrative unit purchasing user group. The user group shall be comprised of a proportionate number of representatives from the Department of Administration and local school administrative unit purchasing and finance officers. The user group shall examine any issues that may arise between the Department of Administration and local school administrative units, including the new relationship between the Department and the local school administrative units, the appropriate exchange of information, the continued efficient use of E-Procurement, appropriate bid procedures, and any other technical assistance that may be necessary for the purchase of supplies and materials."

**SECTION 2.** G.S. 115C-522.1 is repealed.

**SECTION 3.** G.S. 115C-249(g) is repealed.

**SECTION 4.** G.S. 115C-47(23) reads as rewritten:

"(23) To Purchase Equipment and Supplies. – Local boards shall contract for equipment and supplies under G.S. ~~115C-522(a), 115C-522.1, 115C-522(a)~~ and G.S. 115C-528."

**SECTION 5.** G.S. 115C-264 reads as rewritten:

**"§ 115C-264. Operation.**

In the operation of their public school food programs, the public schools shall participate in the National School Lunch Program established by the federal government. The program shall be under the jurisdiction of the Division of School Food Services of the Department of Public Instruction and in accordance with federal guidelines as established by the Child Nutrition Division of the United States Department of Agriculture.

Each school may, with the approval of the local board of education, sell soft drinks to students so long as soft drinks are not sold (i) during the lunch period, (ii) at elementary schools, or (iii) contrary to the requirements of the National School Lunch Program.

All school food services shall be operated on a nonprofit basis, and any earnings therefrom over and above the cost of operation as defined herein shall be used to reduce the cost of food, to serve better food, or to provide free or reduced-price lunches to indigent children and for no other purpose. The term "cost of operation" shall be defined as actual cost incurred in the purchase and preparation of food, the salaries of all personnel directly engaged in providing food services, and the cost of nonfood supplies as outlined under standards adopted by the State Board of Education. "Personnel" shall be defined as food service supervisors or directors, bookkeepers directly engaged in food service record keeping and those persons directly involved in preparing and serving food: Provided, that food service personnel shall be paid from the funds of food services only for services rendered in behalf of lunchroom services. Any cost incurred in the provisions and maintenance of school food services over and beyond the cost of operation shall be included in the budget request filed annually by local boards of education with boards of county commissioners. It shall not be mandatory that the provisions of ~~G.S. 115C-522(a) and 143-129~~ G.S. 143-129 be complied with in the purchase of supplies and food for such school food services."

**SECTION 6.** G.S. 143-48(b) reads as rewritten:

"(b) Reporting. – Every governmental entity required by statute to use the services of the Department of Administration in the purchase of goods and ~~services~~ services, every local school administrative unit, and every private, nonprofit corporation other than an institution of higher education or a hospital that receives an appropriation of five hundred thousand dollars (\$500,000) or more during a fiscal year from the General Assembly shall report to the department of Administration annually on what percentage of its contract purchases of goods and services, through term contracts and open-market contracts, were from minority-owned businesses, what percentage from female-owned businesses, what percentage from disabled-owned businesses, what percentage from disabled business enterprises and what percentage from nonprofit work centers for the blind and the severely disabled. The same governmental entities shall include in their reports what percentages of the contract bids for such purchases were from such businesses. The Department of Administration shall provide instructions to the reporting entities concerning the manner of reporting and the definitions of the businesses referred to in this act, provided that, for the purposes of this act:

- (1) Except as provided in subdivision (1a) of this ~~section~~, subsection, a business in one of the categories above means one:
  - a. In which at least fifty-one percent (51%) of the business, or of the stock in the case of a corporation, is owned by one or more persons in the category; and
  - b. Of which the management and daily business operations are controlled by one or more persons in the category who own it.
- (1a) A "disabled business enterprise" means a nonprofit entity whose main purpose is to provide ongoing habilitation, rehabilitation, independent living, and competitive employment for persons who are handicapped through supported employment sites or business operated to provide training and employment and competitive wages.
- (1b) A "nonprofit work center for the blind and the severely disabled" means an agency:
  - a. Organized under the laws of the United States or this State, operated in the interest of the blind and the severely disabled,



- the net income of which agency does not inure in whole or in part to the benefit of any shareholder or other individual;
- b. In compliance with any applicable health and safety standard prescribed by the United States Secretary of Labor; and
  - c. In the production of all commodities or provision of services, employs during the current fiscal year severely handicapped individuals for (i) a minimum of seventy-five percent (75%) of the hours of direct labor required for the production of commodities or provision of services, or (ii) in accordance with the percentage of direct labor required under the terms and conditions of Public Law 92-28 (41 U.S.C. § 46, et seq.) for the production of commodities or provision of services, whichever is less.
- (2) A female or a disabled person is not a minority, unless the female or disabled person is also a member of one of the minority groups described in G.S. 143-128(2)a through d.
  - (3) A disabled person means a person with a handicapping condition as defined in G.S. 168-1 or G.S. 168A-3."

**SECTION 7.** G.S. 143-48.3 reads as rewritten:

**"§ 143-48.3. Electronic procurement.**

...

(b) The Department of Administration, in conjunction with the Office of the State Controller and the Office of Information Technology Services may, upon request, provide to all State agencies, universities, ~~local school administrative units, and the~~ and community colleges, training in the use of the electronic procurement system.

...

(d) This section does not otherwise modify existing law relating to procurement between The University of North Carolina, UNC Health Care, ~~local school administrative units,~~ community colleges, and the Department of Administration.

...

(f) Any State ~~entity, local school administrative unit,~~ entity or community college operating a functional electronic procurement system established prior to September 1, 2001, may until May 1, 2003, continue to operate that system independently or may opt into the North Carolina E-Procurement Service. Each entity subject to this section shall notify the Information Resources Management Commission by January 1, 2002, and annually thereafter, of its intent to participate in the North Carolina E-Procurement Service."

**SECTION 8.** G.S. 143-49 reads as rewritten:

**"§ 143-49. Powers and duties of Secretary.**

The Secretary of Administration shall have power and authority, and it shall be his duty, subject to the provisions of this Article:

- ...
- (6) To make available to nonprofit corporations operating charitable hospitals, to local nonprofit community sheltered workshops or centers that meet standards established by the Division of Vocational Rehabilitation of the Department of Health and Human Services, to private nonprofit agencies licensed or approved by the Department of Health and Human Services as child placing agencies, residential child-care facilities, private nonprofit rural, community, and migrant

health centers designated by the Office of Rural Health and Resource Development, to private higher education institutions that are defined as "institutions" in G.S. 116-22(1), and to counties, cities, towns, local school administrative units, governmental entities and other subdivisions of the State and public agencies thereof in the expenditure of public funds, the services of the Department of Administration in the purchase of materials, supplies and equipment under such rules, regulations and procedures as the Secretary of Administration may adopt. In adopting rules and regulations any or all provisions of this Article may be made applicable to such purchases and contracts made through the Department of Administration, and in addition the rules and regulations shall contain a requirement that payment for all such purchases be made in accordance with the terms of the contract. Prior to adopting rules and regulations under this subdivision, the Secretary of Administration may consult with the Advisory Budget Commission.

...

- (8) To establish and maintain a procurement card program for use by State agencies, community colleges, ~~nonexempted constituent institutions of The University of North Carolina, and local school administrative units~~ and nonexempted constituent institutions of The University of North Carolina. The Secretary of Administration may adopt temporary rules for the implementation and operation of the program in accordance with the payment policies of the State Controller, after consultation with the Office of Information Technology Services. These rules would include the establishment of appropriate order limits that leverage the cost savings and efficiencies of the procurement card program in conjunction with the fullest possible use of the North Carolina E-Procurement Service. Prior to implementing the program, the Secretary shall consult with the State Controller, the UNC General Administration, the Community Colleges System Office, the State Auditor, the Department of Public Instruction, a representative chosen by the local school administrative units, and the Office of Information Technology Services. The Secretary may periodically adjust the order limit authorized in this section after consulting with the State Controller, the UNC General Administration, the Community Colleges System Office, the Department of Public Instruction, and the Office of Information Technology Services."

**SECTION 9.** G.S. 143-53(a)(2) reads as rewritten:

**"§ 143-53. Rules.**

- (a) The Secretary of Administration may adopt rules governing the following:

...

- (2) Prescribing the routine, including consistent contract language, for securing bids on items that do not exceed the bid value benchmark established under the provisions of G.S. 143-53.1 or G.S. 116-31.10. The purchasing delegation for securing offers (excluding the special responsibility constituent institutions of The University of North Carolina), for each State department, institution, agency, ~~community college, and public school administrative unit~~ and community college shall be determined by the Director of the Division of Purchase and

Contract. For the State agencies this shall be done following the Director's consultation with the State Budget Officer and the State Auditor. The Director for the Division of Purchase and Contract may set or lower the delegation, or raise the delegation upon written request by the agency, after consideration of their overall capabilities, including staff resources, purchasing compliance reviews, and audit reports of the individual agency. The routine prescribed by the Secretary shall include contract award protest procedures and consistent requirements for advertising of solicitations for securing offers issued by State departments, institutions, universities (including the special responsibility constituent institutions of The University of North Carolina), agencies, community colleges, and the public school administrative units."

**SECTION 10.(a)** Use of NC E-Procurement Service by LEAs. – The State encourages local school administrative units to use the NC E-Procurement Service ('Service'). In order to facilitate use of the Service by school units, the State Board of Education, in consultation with the Office of Information Technology Services, the Division of Purchase and Contract, and the Service, shall establish standards for determining when a local school administrative unit's purchasing process is E-Procurement compliant. The Department of Public Instruction shall determine when a local school administrative unit is E-Procurement compliant and shall notify the Division of Purchase and Contract of the units certified within three days of the certification.

**SECTION 10.(b)** Obligation of LEAs. – As of the date a local school administrative unit is certified by the Department of Public Instruction as being E-Procurement compliant, it must expend at least thirty percent (30%) of its remaining unencumbered funds used to purchase supplies, equipment, materials, computer software, and other tangible personal property during the fiscal year in which it is certified through the NC E-Procurement Service. The unit must expend at least thirty-five percent (35%) of its funds used to purchase supplies, equipment, materials, computer software, and other tangible personal property during the fiscal year following certification through the NC E-Procurement Service and forty percent (40%) during the second fiscal year following certification. The State encourages the units to utilize the NC E-Procurement Service to purchase at least fifty percent (50%) of their supplies, equipment, materials, computer software, and other tangible personal property during the fiscal year following certification and at least seventy percent (70%) of their supplies, equipment, materials, computer software, and other tangible personal property during the second fiscal year following certification.

**SECTION 10.(c)** Pilot Projects/Reporting. – To use the NC E-Procurement Service, a local school administrative unit's current software purchasing system must be interfaced with the NC E-Procurement Service system. All but two of the 117 local school administrative units utilize one of two systems: ISIS by EMS or SunPac by Sartox. To encourage local school administrative units to use the NC E-Procurement Service, the Service will begin the interface process with four local school administrative units – two of which use ISIS and two of which use SunPac. The four pilot units will be the local school administrative units of Cabarrus County, Edgecombe County, Guilford County, and Sampson County. The four pilot units must be certified as being E-Procurement compliant on or before December 1, 2003.

The General Assembly finds that the timely implementation of the pilot projects is critical to the statewide availability of E-Procurement to all local school administrative units. Therefore, in order to monitor the progress of the interface process, the Department of Public Instruction shall report to the Joint Legislative Commission on Governmental Operations and the State Board of Education by November 1, 2003, on the progress of the pilots and whether those local school administrative units will be E-Procurement compliant by December 1, 2003. Notwithstanding any other provision of law, if the State Board determines that the pilots will not be E-Procurement compliant by the target date, it may establish an alternative date after taking into consideration the State priority of prompt implementation. The State Board shall notify the Joint Legislative Commission on Governmental Operations of any action it takes in this matter.

**SECTION 10.(d)** Charlotte/Mecklenburg LEA and Wake County LEA. – The local school administrative units of Charlotte/Mecklenburg and Wake County each utilize a unique software purchasing system. NC E-Procurement Service must begin the process of interfacing the Service's software system with these units' software system. Charlotte/Mecklenburg and Wake County must be certified as E-Procurement compliant on or before July 1, 2004.

**SECTION 10.(e)** Remainder of LEAs. – The remaining 111 local school administrative units must be certified as being E-Procurement compliant by January 1, 2005. The NC E-Procurement Service will assist the units in interfacing their systems and training their employees on a regional basis by the type of software the unit currently uses.

**SECTION 11.** Nothing in this act shall be construed to limit the authority of the Department of Administration to develop, implement, and monitor a pilot program for reverse auctions for public school systems as provided in Section 3 of Chapter 107 of the 2002 Session Laws.

**SECTION 12.** Sections 1 through 8 of this act become effective for a local school administrative unit when the unit is certified by the Department of Public Instruction as being E-Procurement compliant, as provided in Section 9 of this act, or April 1, 2004, whichever occurs first. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 29<sup>th</sup> day of May, 2003.

Became law upon approval of the Governor at 11:37 p.m. on the 4<sup>th</sup> day of June, 2003.

**S.B. 962****Session Law 2003-148**

AN ACT TO REQUIRE BAIL BONDSMEN TO SUBMIT AFFIDAVITS STATING THAT THERE ARE NO PREMIUMS OWED TO FORMER INSURERS AND THAT ALL FORFEITURES OR JUDGMENTS ARE SATISFIED OR DISCHARGED.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Article 71 of Chapter 58 of the General Statutes is amended by adding a new section to read:

**"§ 58-71-141. Appointment of bail bondsmen; affidavit required.**

(a) Prior to receiving an appointment, a surety bondsman shall submit to the Commissioner an affidavit, signed under oath, by the surety bondsman and by any former insurer, stating that the surety bondsman does not owe any premium or unsatisfied judgment to any insurer and that the bondsman agrees to discharge all outstanding forfeitures and judgments on bonds previously written. The affidavit shall be in a form prescribed by the Commissioner. If the surety bondsman does not satisfy or discharge all forfeitures or judgments, the former insurer shall submit a notice, with supporting documents, to the appointing insurer, the surety bondsman, and the Commissioner, which states, under oath, that the surety bondsman has failed to satisfy, in a timely manner, the forfeitures and judgments on bonds written by the surety bondsman and that the former insurer has satisfied the forfeiture or judgment from its own funds. Upon receipt of the notification and supporting documents, the appointing insurer shall immediately cancel the surety bondsman's appointment. The surety bondsman may be reappointed only upon certification by the former insurer that all forfeitures and judgments on bonds written by the surety bondsman have been discharged. The appointing insurer or surety bondsman may, within 10 days of the receipt of notice from the former insurer, appeal to the Commissioner.

(b) The Commissioner shall adopt rules, including rules regarding the process of appeals and stays of the requirements of this section, to implement this section.

(c) As used in this section, "former insurer" means the insurer with whom the surety bondsman had a prior appointment and who is responsible for any outstanding bonds written by the surety bondsman."

**SECTION 2.** This act becomes effective October 1, 2003, and applies to all appointments of bondsmen on or after that date.

In the General Assembly read three times and ratified this the 29<sup>th</sup> day of May, 2003.

Became law upon approval of the Governor at 11:37 p.m. on the 4<sup>th</sup> day of June, 2003.

**S.B. 959****Session Law 2003-149**

AN ACT TO AUTHORIZE THE COMMISSION FOR HEALTH SERVICES TO ADOPT RULES REGARDING MONITORING OF COASTAL RECREATION WATERS IN ORDER TO IMPLEMENT THE FEDERAL BEACHES ENVIRONMENTAL ASSESSMENT AND COASTAL HEALTH ACT OF 2000.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Part 3A of Article 8 of Chapter 130A of the General Statutes reads as rewritten:

"Part 3A. Monitor Water Quality of Coastal Fishing and Recreation Waters.

**"§ 130A-233. Definitions.**

The following definitions apply to this Part:

- (1) Coastal fishing waters. – Defined in G.S. 113-129(4).
- (2) Inland fishing waters. – Defined in G.S. 113-129(9).
- (3) Coastal recreation waters. – Defined in 33 U.S.C. § 1362.

**"§ 130A-233.1. Monitoring program for State coastal fishing and recreation waters; development and implementation of program.**

(a) For the protection of the public health of swimmers and others who use the State's coastal fishing waters for recreational activities, the Department shall develop and implement a program to monitor the State's coastal fishing waters for contaminants. The monitoring program shall cover all coastal fishing waters up to the point where those waters are classified as inland fishing waters.

(b) The Commission shall adopt rules to provide for a water quality monitoring program for the coastal recreation waters of the State and to allow the Department to implement the federal Beaches Environmental Assessment and Coastal Health Act of 2000 (Pub. L. No. 106-284; 114 Stat. 870, 875; 33 U.S.C. §§ 1313, 1362). The rules shall address, but are not limited to, definitions, surveys, sampling, action standards, and posting of information on the water quality of coastal recreation waters.

**"§ 130A-233.2. Removal or destruction of warning signs.**

No person shall remove, destroy, damage, deface, mutilate, or otherwise interfere with any sign posted by the Department pursuant to G.S. 130A-233.1. No person, without just cause or excuse, shall have in his possession any sign posted by the Department pursuant to G.S. 130A-233.1. Any person who violates this section is guilty of a Class 2 misdemeanor."

**SECTION 2.** This act is effective when it becomes law except that G.S. 130A-233.2, as enacted by Section 1 of this act, becomes effective 1 December 2003 and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 29<sup>th</sup> day of May, 2003.

Became law upon approval of the Governor at 11:38 p.m. on the 4<sup>th</sup> day of June, 2003.

**S.B. 519**

**Session Law 2003-150**

**AN ACT TO AMEND THE LAW REGARDING THE PREVENTION AND CONTROL OF LEAD POISONING IN CHILDREN.**

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 130A-131.7 reads as rewritten:

**"§ 130A-131.7. Definitions.**

As used in this Part, unless the context requires otherwise, the term:  
The following definitions apply in this Part:

- (1) "Abatement" means undertaking any of the following measures to eliminate a lead-based paint hazard:
  - a. Removing lead-based paint from a surface and repainting the surface.
  - b. Removing a component, such as a windowsill, painted with lead-based paint and replacing the component.
  - c. Enclosing a surface painted with lead-based paint with paneling, vinyl siding, or another approved material.
  - d. Encapsulating a surface painted with lead-based paint with a sealant.
  - e. Any other measure approved by the Commission.

- (2) "Child-occupied facility" means a building, or portion of a building, constructed ~~prior to~~before 1978, regularly visited by a child who is less than ~~6~~six years of age. Child-occupied facilities may include, but are not limited to, child care facilities, preschools, nurseries, kindergarten classrooms, schools, clinics, or treatment centers including the common areas, the grounds, any outbuildings, or other structures appurtenant to the facility.
- (3) "Confirmed lead poisoning" means a blood lead concentration of 20 micrograms per deciliter or greater determined by the lower of two consecutive blood tests within a six-month period.
- (4) "Department" means the Department of Environment and Natural Resources or its authorized agent.
- (5) "Elevated blood lead level" means a blood lead concentration of 10 micrograms per deciliter or greater determined by the lower of two consecutive blood tests within a six-month period.
- (6) "Lead-based paint hazard" means a condition that is likely to ~~cause adverse health effects as a result of~~in exposure to lead-based paint or to soil or dust that contains lead ~~derived from lead-based paint at a concentration that constitutes a lead poisoning hazard.~~
- (7) "Lead poisoning hazard" means any of the presence of readily accessible or mouthable lead-bearing substances, including lead-based paint, measuring 1.0 milligram per square centimeter or greater by X-ray fluorescence or five-tenths of one percent (0.5%) or greater by chemical analysis; or 15 parts per billion or greater in drinking water; or 100 micrograms per square foot or greater for dust on floors; or 500 micrograms per square foot or greater for dust on windowsills; or 800 micrograms per square foot or greater for dust in window troughs, or soil lead concentrations in an amount greater than or equal to 400 parts per million that is determined by the Department to present a hazard in light of (i) the condition and use of the land and (ii) other relevant factors following:
- a. Any lead-based paint or other substance that contains lead in an amount equal to or greater than 1.0 milligrams lead per square centimeter as determined by X-ray fluorescence or five-tenths of a percent (0.5%) lead by weight as determined by chemical analysis: (i) on any readily accessible substance or chewable surface on which there is evidence of teeth marks or mouthing; or (ii) on any other deteriorated or otherwise damaged interior or exterior surface.
  - b. Any substance that contains lead intended for use by children less than six years of age in an amount equal to or greater than 0.06 percent (0.06%) lead by weight as determined by chemical analysis.
  - c. Any concentration of lead dust that is equal to or greater than 40 micrograms per square foot on floors or 250 micrograms per square foot on interior windowsills, vinyl miniblinds, bathtubs, kitchen sinks, or lavatories.
  - d. Any lead-based paint or other substance that contains lead on a friction or impact surface that is subject to abrasion, rubbing,

- binding, or damage by repeated contact and where the lead dust concentrations on the nearest horizontal surface underneath the friction or impact surface are equal to or greater than 40 micrograms per square foot on floors or 250 micrograms per square foot on interior windowsills.
- e. Any concentration of lead in bare soil in play areas, gardens, pet sleeping areas, and areas within three feet of a residential housing unit or child-occupied facility equal to or greater than 400 parts per million. Any concentration of lead in bare soil in other locations of the yard equal to or greater than 1,200 parts per million.
- f. Any ceramic ware generating equal to or greater than three micrograms of lead per milliliter of leaching solution for flatware or 0.5 micrograms of lead per milliliter for cups, mugs, and pitchers as determined by Method 973.32 of the Association of Official Analytical Chemists.
- g. Any concentration of lead in drinking water equal to or greater than 15 parts per billion.
- (8) "Lead-safe housing" is housing that was built since 1978 or has been tested by a person that has been certified to perform risk assessments and found to have no lead-based paint hazard within the meaning of the Residential Lead-Based Paint Reduction Act of 1992, 42 U.S.C. § 4851b(15).
- (9) "Maintenance standard" means the following:
- Using safe work practices, repairing and repainting areas of deteriorated paint inside a residential housing unit and for single-family and duplex residential dwelling built ~~prior to~~ before 1950, repairing and repainting areas of deteriorated paint on interior and exterior surfaces;
  - Cleaning the interior of the unit to remove dust that constitutes a lead poisoning hazard;
  - Adjusting doors and windows to minimize friction or impact on surfaces;
  - Subject to the occupant's approval, appropriately cleaning any carpets;
  - Taking such steps as are necessary to ensure that all interior surfaces on which dust might collect are readily cleanable; and
  - Providing the occupant or occupants all information required to be provided under the Residential Lead-Based Paint Hazard Reduction Act of 1992, and amendments thereto.
- (10) "Managing agent" means any person who has charge, care, or control of a building or part thereof in which dwelling units or rooming units are leased.
- (11) ~~"Mouthable lead bearing substance" means any substance on surfaces or fixtures five feet or less from the floor or ground that form a protruding corner or similar edge, or protrude one half inch or more from a flat wall surface, or are freestanding, containing lead contaminated dust at a level that constitutes a lead poisoning hazard. Mouthable surfaces or fixtures include toys, vinyl miniblinds,~~



- ~~doors, door jambs, stairs, stair rails, windows, windowsills, and baseboards.~~
- (12) ~~"Persistent elevated blood lead level" means a blood lead concentration of 15-19 micrograms per deciliter determined by the lowest of three consecutive blood tests. The first two blood tests shall be performed within a six-month period, and the third blood test shall be performed at least 12 weeks and not more than six months after the second blood test.~~
- (13) "Readily accessible lead-bearing substance" means any substance containing lead at a level that constitutes a lead poisoning hazard ~~which~~that can be ingested or inhaled by a child ~~under 6~~less than six years of age. Readily accessible substances include deteriorated paint that is peeling, chipping, cracking, flaking, or blistering to the extent that the paint has separated from the substrate. Readily accessible substances also include soil, ~~water,~~water, toys, vinyl miniblinds, bathtubs, lavatories, doors, door jambs, stairs, stair rails, windows, interior windowsills, baseboards, and paint that is chalking.
- (14) "Regularly visits" means the presence at a residential housing unit or child-occupied facility on at least two different days within any week, provided that each day's visit lasts at least three hours and the combined weekly visits last at least six hours, and the combined annual visits last at least 60 hours.
- (15) "Remediation" means the elimination or control of lead poisoning hazards by methods approved by the Department.
- (16) "Residential housing unit" means a dwelling, dwelling unit, or other structure, all or part of which is designed or used for human habitation, including the common areas, the grounds, any outbuildings, or other structures appurtenant to the residential housing unit.
- (17) "Supplemental address" means a residential housing unit or child-occupied facility where a child with ~~a persistent elevated blood lead level or a confirmed lead poisoning~~ regularly visits or attends. Supplemental address also means a residential housing unit or child-occupied facility where a child resided, regularly visited, or attended within the six months immediately preceding the determination of ~~a persistent elevated blood lead level or a confirmed lead poisoning.~~

**SECTION 2.** G.S. 130A-131.8 reads as rewritten:

**"§ 130A-131.8. Reports of blood levels in children.**

All laboratories doing business in this State shall report to the Department all blood lead ~~levels of one microgram per deciliter or greater~~test results for children less than ~~6~~six years of age and for individuals whose ages are unknown at the time of testing. Reports shall be made within five working days after test completion on forms provided by the Department or on self-generated forms containing: the child's full name, date of birth, sex, race, address, and Medicaid number, if any; the name, address, and telephone number of the requesting health care provider; the name, address, and telephone number of the testing laboratory; the laboratory results, the specimen type – venous or capillary; the laboratory sample number, and the dates the sample was collected and analyzed. ~~Such~~The reports may be made by electronic submissions."

**SECTION 3.** G.S. 130A-131.9 reads as rewritten:**"§ 130A-131.9. Examination and testing.**

When the Department has a reasonable suspicion that a child less than ~~6~~six years of age has a ~~persistent~~an elevated blood lead level or a confirmed lead poisoning, the Department may require that child to be examined and tested within 30 days. The Department shall require from the owner, managing agent, or tenant of the residential housing unit or child-occupied facility information on each child who resides in, regularly visits, or attends, or, who has within the past six months, resided in, regularly visited, or attended the unit or facility. The information required shall include each child's name and date of birth, the names and addresses of each child's parents, legal guardian, or full-time custodian. The owner, managing agent, or tenant shall submit the required information within 10 days of receipt of the request from the Department."

**SECTION 4.** G.S. 130A-131.9A reads as rewritten:**"§ 130A-131.9A. Investigation to identify lead poisoning hazards.**

(a) When the Department learns of a ~~persistent elevated blood lead level or a confirmed lead poisoning~~, the Department shall conduct an investigation to identify the lead poisoning hazards to children. The Department shall investigate the residential housing unit ~~or child-occupied facility~~ where the child with the ~~persistent elevated blood lead level or the confirmed lead poisoning~~ resides, regularly visits, or attends. resides. The Department shall also investigate the supplemental addresses of the child who has a ~~persistent elevated blood lead or a confirmed lead poisoning~~.

(a1) When the Department learns of an elevated blood lead level, the Department shall, upon informed consent, investigate the residential housing unit where the child with the elevated blood level resides. When consent to investigate is denied, the child with the elevated blood lead level cannot be located, or the child's parent or guardian fails to respond, the Department shall document the denial of consent, inability to locate, or failure to respond.

(b) The Department shall also conduct an investigation when it reasonably suspects that a lead poisoning hazard to children exists in a residential housing unit or child-occupied facility occupied, regularly visited, or attended by a child less than ~~6~~six years of age.

(c) In conducting an investigation, the Department may take samples of surface materials, or other materials suspected of containing lead, for analysis and testing. If samples are taken, chemical determination of the lead content of the samples shall be by atomic absorption spectroscopy or equivalent methods approved by the Department."

**SECTION 5.** G.S. 130A-131.9B reads as rewritten:**"§ 130A-131.9B. Notification.**

Upon determination that a lead poisoning hazard exists, the Department shall give written notice of the lead poisoning hazard to the owner or managing agent of the residential housing unit or child-occupied facility and to all persons residing in, attending, or regularly visiting the unit or facility. The written notice to the owner or managing agent shall include a list of possible methods of ~~abatement of the lead based paint hazards and of possible methods of remediation of any other lead poisoning hazard.~~ remediation."

**SECTION 6.** G.S. 130A-131.9C reads as rewritten:**"§ 130A-131.9C. ~~Abatement and remediation.~~Remediation.**

(a) Upon determination that a child less than ~~6~~six years of age has a confirmed lead poisoning of 20 micrograms per deciliter or greater and that child resides ~~in,~~ in, ~~attends, or regularly visits,~~ in a residential housing unit ~~or child-occupied facility~~

containing lead poisoning hazards, the Department shall require ~~abatement of the lead-based paint hazards and the~~ remediation of ~~other the~~ lead poisoning hazards. The Department shall also require ~~the abatement of the lead-based paint hazards and the~~ remediation of ~~other the~~ lead poisoning hazards identified at the supplemental addresses of a child less than ~~6~~ six years of age with a confirmed lead poisoning of 20 micrograms per deciliter or greater.

(b) When ~~abatement of lead-based paint hazards or~~ remediation of ~~other~~ lead poisoning hazards is required under subsection (a) of this section, the owner or managing agent shall submit a written remediation plan to the Department within 14 days of receipt of the lead poisoning hazard notification and shall obtain written approval of the plan ~~prior to~~ before initiating ~~abatement of lead-based paint hazards or~~ remediation of ~~other lead poisoning hazards~~ activities. The remediation plan shall comply with subsections (g), (h), and (i) of this section.

(c) If the remediation plan submitted fails to meet the requirements of this section, the Department shall issue an order requiring submission of a modified plan. The order shall indicate the modifications ~~which that~~ shall be made to the remediation plan and the date ~~by which that~~ the plan as modified shall be submitted to the Department.

(d) If the owner or managing agent does not submit a remediation plan within 14 days, the Department shall issue an order requiring submission of a remediation plan within five days of receipt of the order.

(e) The owner or managing agent shall notify the Department and the occupants of the dates of remediation activities at least three days ~~prior to the~~ before commencement of the activities.

(f) ~~Abatement of lead-based paint hazards and remediation~~ Remediation of ~~other~~ the lead poisoning hazards shall be completed within 60 days of the Department's approval of the remediation plan. If ~~these the~~ remediation activities are not completed within ~~60 days as required,~~ days, the Department shall issue an order requiring completion of the activities. An owner or managing agent may apply to the Department for an extension of the deadline. The Department may issue an order extending the deadline for 30 days upon proper written application by the owner or managing agent.

(g) ~~The~~ All of the following methods of ~~abatement~~ remediation of lead-based paint hazards are prohibited:

- (1) Stripping paint on-site with methylene chloride-based ~~solutions;~~ solutions.
- (2) Torch or flame ~~burning;~~ burning.
- (3) Heating paint with a heat gun above 1,100 degrees ~~Fahrenheit;~~ Fahrenheit.
- (4) Covering with new paint or wallpaper unless all readily accessible lead-based paint has been ~~removed;~~ removed.
- (5) Uncontrolled abrasive ~~blasting; or~~ blasting, machine sanding, or grinding, except when used with High Efficiency Particulate Air (HEPA) exhaust control that removes particles of 0.3 microns or larger from the air at ninety-nine and seven-tenths percent (99.7%) or greater efficiency.
- (6) Uncontrolled waterblasting.
- (7) Dry scraping, unless used in conjunction with heat guns, or around electrical outlets, or when treating no more than two square feet on interior surfaces, or no more than 20 square feet on exterior surfaces.

(h) All lead-containing waste and residue shall be removed and disposed of in accordance with applicable federal, State, and local laws and rules. Other substances containing lead that are intended for use by children less than six years of age and vinyl miniblinds that constitute a lead poisoning hazard shall be removed and disposed of in accordance with applicable federal, State, and local laws and rules.

(i) All remediation plans shall require that the lead poisoning hazards be reduced to ~~below~~ the following levels:

- (1) ~~Floor lead dust levels~~ Fewer are less than 100-40 micrograms per square foot; foot for lead dust on floors.
- (2) ~~Windowsill lead dust levels are less~~ Fewer than 500-250 micrograms per square foot; foot for lead dust on interior windowsills, bathtubs, kitchen sinks, and lavatories.
- (3) ~~Window trough lead dust levels are less~~ Fewer than 800-400 micrograms per square foot; foot for lead dust on window troughs.
- (4) ~~Soil lead levels are less~~ Fewer than 400 parts per million or such other level higher than 400 parts per million as determined by the Department to prevent a hazard in light of the condition and use of the land and in light of other relevant factors; and for lead in bare soil in play areas, gardens, pet sleeping areas, and areas within three feet of the residential housing unit or child-occupied facility. Lead in bare soil in other locations of the yard shall be reduced to less than 1,200 parts per million.
- (5) ~~Drinking water lead levels less~~ Fewer than 15 parts per billion. billion for lead in drinking water.

(j) The Department shall verify by visual inspection that the approved remediation plan has been completed. The Department may also verify plan completion by residual lead dust monitoring and soil or drinking water lead level measurement.

(j1) Compliance with the maintenance standard satisfies the remediation requirements for confirmed lead poisoning cases identified on or after 1 October 1990 as long as all lead poisoning hazards identified on interior and exterior surfaces are addressed by remediation. Except for owner-occupied residential housing units, continued compliance shall be verified by means of an annual monitoring inspection conducted by the Department. For owner-occupied residential housing units, continued compliance shall be verified (i) by means of an annual monitoring inspection, (ii) by documentation that no child less than six years of age has resided in or regularly visited the residential housing unit within the past year, or (iii) by documentation that no child less than six years of age residing in or regularly visiting the unit has an elevated blood lead level.

(k) Removal of children from the residential housing unit or child-occupied facility shall not constitute ~~abatement or remediation~~ if the property continues to be used for a residential housing unit or child-occupied ~~facility~~. The remediation requirements imposed in subsection (a) of this section apply so long as the property continues to be used as a residential housing unit or child-occupied facility."

**SECTION 7.** G.S. 130A-131.9G reads as rewritten:

**"§ 130A-131.9G. Resident responsibilities.**

In any residential housing unit occupied by a child less than ~~6~~ six years ~~old~~ of age who has an elevated blood lead level of 10 micrograms per deciliter or greater, the Department shall advise, in writing, the owner or managing agent and the child's parents or legal guardian ~~as to~~ of the importance of carrying out routine cleaning activities in the

units they occupy, own, or manage. ~~Such~~ The cleaning activities shall ~~include~~ include all of the following:

- (1) Wiping clean all windowsills with a damp cloth or sponge at least ~~weekly;~~ weekly.
- (2) Regularly washing all surfaces accessible to ~~children;~~ children.
- (3) In the case of a leased residential housing unit, identifying any deteriorated paint in the unit and notifying the owner or managing agent of ~~such~~ the conditions within 72 hours of ~~discovery;~~ and discovery.
- (4) Identifying and understanding potential lead poisoning hazards in the environment of each child ~~under the age of 6~~ less than six years of age in the unit (including toys, vinyl miniblinds, playground equipment, drinking water, soil, and painted surfaces), and taking steps to prevent children from ingesting lead such as encouraging children to wash their faces and hands frequently and especially after playing outdoors."

**SECTION 8.** This act becomes effective 1 July 2003.

In the General Assembly read three times and ratified this the 29<sup>th</sup> day of May, 2003.

Became law upon approval of the Governor at 11:40 p.m. on the 4<sup>th</sup> day of June, 2003.

**S.B. 93**

**Session Law 2003-151**

**AN ACT TO AMEND THE DEFINITION OF SPECIAL PROBATION TO REMOVE THE SIX-MONTH LIMITATION ON THE PERIOD OF IMPRISONMENT.**

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 15A-1344(e) reads as rewritten:

"(e) Special Probation in Response to Violation. – When a defendant has violated a condition of probation, the court may modify his probation to place him on special probation as provided in this subsection. In placing him on special probation, the court may continue or modify the conditions of his probation and in addition require that he submit to a period or periods of imprisonment, either continuous or noncontinuous, at whatever time or intervals within the period of probation the court determines. In addition to any other conditions of probation which the court may impose, the court shall impose, when imposing a period or periods of imprisonment as a condition of special probation, the condition that the defendant obey the Rules and Regulations of the Department of Correction governing conduct of inmates, and this condition shall apply to the defendant whether or not the court imposes it as a part of the written order. If imprisonment is for continuous periods, the confinement may be in either the custody of the Department of Correction or a local confinement facility. Noncontinuous periods of imprisonment under special probation may only be served in a designated local confinement or treatment facility. Except for probationary sentences for impaired driving under G.S. 20-138.1, the total of all periods of confinement imposed as an incident of special probation, but not including an activated suspended sentence, may not exceed ~~six months or one-fourth~~ one-fourth the maximum sentence of imprisonment imposed for the ~~offense, whichever is less.~~ offense. For probationary sentences for impaired driving under G.S. 20-138.1, the total of all periods of confinement imposed as an incident of special probation, but not including an activated suspended sentence,

shall not exceed one-fourth the maximum penalty allowed by law. No confinement other than an activated suspended sentence may be required beyond the period of probation or beyond two years of the time the special probation is imposed, whichever comes first."

**SECTION 2.** G.S. 15A-1351(a) reads as rewritten:

"(a) The judge may sentence to special probation a defendant convicted of a criminal offense other than impaired driving under G.S. 20-138.1, if based on the defendant's prior record or conviction level as found pursuant to Article 81B of this Chapter, an intermediate punishment is authorized for the class of offense of which the defendant has been convicted. A defendant convicted of impaired driving under G.S. 20-138.1 may also be sentenced to special probation. Under a sentence of special probation, the court may suspend the term of imprisonment and place the defendant on probation as provided in Article 82, Probation, and in addition require that the defendant submit to a period or periods of imprisonment in the custody of the Department of Correction or a designated local confinement or treatment facility at whatever time or intervals within the period of probation, consecutive or nonconsecutive, the court determines. In addition to any other conditions of probation which the court may impose, the court shall impose, when imposing a period or periods of imprisonment as a condition of special probation, the condition that the defendant obey the Rules and Regulations of the Department of Correction governing conduct of inmates, and this condition shall apply to the defendant whether or not the court imposes it as a part of the written order. If imprisonment is for continuous periods, the confinement may be in the custody of either the Department of Correction or a local confinement facility. Noncontinuous periods of imprisonment under special probation may only be served in a designated local confinement or treatment facility. Except for probationary sentences of impaired driving under G.S. 20-138.1, the total of all periods of confinement imposed as an incident of special probation, but not including an activated suspended sentence, may not exceed ~~six months or one-fourth~~ one-fourth the maximum sentence of imprisonment imposed for the offense, ~~whichever is less~~, and no confinement other than an activated suspended sentence may be required beyond two years of conviction. For probationary sentences for impaired driving under G.S. 20-138.1, the total of all periods of confinement imposed as an incident of special probation, but not including an activated suspended sentence, shall not exceed one-fourth the maximum penalty allowed by law. In imposing a sentence of special probation, the judge may credit any time spent committed or confined, as a result of the charge, to either the suspended sentence or to the imprisonment required for special probation. The original period of probation, including the period of imprisonment required for special probation, shall be as specified in G.S. 15A-1343.2(d), but may not exceed a maximum of five years, except as provided by G.S. 15A-1342(a). The court may revoke, modify, or terminate special probation as otherwise provided for probationary sentences."

**SECTION 3.** This act becomes effective December 1, 2003, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 29<sup>th</sup> day of May, 2003.

Became law upon approval of the Governor at 11:42 p.m. on the 4<sup>th</sup> day of June, 2003.

## H.B. 1159

## Session Law 2003-152

AN ACT TO ESTABLISH A MILITARY DRIVERS LICENSE EXPIRATION PROCEDURE WITHIN THE DIVISION OF MOTOR VEHICLES AND TO ALLOW THE DIVISION OF MOTOR VEHICLES TO ISSUE CONFIDENTIAL LICENSE PLATES AND DRIVERS LICENSES TO AGENTS OF THE DEPARTMENT OF DEFENSE.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 20-7 is amended by adding a new subsection to read:

"(q) Military Designation. – The Division shall develop a military designation for drivers licenses that may, upon request, be granted to North Carolina residents on active duty and to their spouses and dependent children. A drivers license with a military designation on it may be renewed by mail no more than two times during the license holder's lifetime. A license renewed by mail under this subsection is a permanent license and does not expire when the license holder returns to the State. A drivers license with a military designation on it issued to a person on active duty may be renewed up to one year prior to its expiration upon presentation of military or Department of Defense credentials."

**SECTION 2.** G.S. 20-7 is amended by adding a new subsection to read:

"(r) Waiver of Vision Test. – The following license holders shall be exempt from any required eye exam when renewing a drivers license by mail under either subsection (f) of this section or subsection (q) of this section if, at the time of renewal, the license holder is serving in a combat zone or a qualified hazardous duty zone:

- (1) A member of the armed forces of the United States.
- (2) A member of the national guard or of a reserve component of the armed forces of the United States."

**SECTION 3.** G.S. 20-39.1(e) reads as rewritten:

"(e) Upon approval and request of the Director of the State Bureau of Investigation, the Commissioner shall issue confidential license plates to local, State, or federal law enforcement agencies, the Department of Crime Control and Public Safety, ~~and~~ agents of the Internal Revenue Service ~~Service~~, and agents of the Department of Defense in accordance with the provisions of this subsection. Applicants in these categories shall provide satisfactory evidence to the Director of the State Bureau of Investigation of the following:

- (1) The confidential license plate requested is to be used on a publicly owned or leased vehicle that is primarily used for transporting, apprehending, or arresting persons charged with violations of the laws of the United States or the State of North Carolina;
- (2) The use of a confidential license plate is necessary to protect the personal safety of an officer or for placement on a vehicle used primarily for surveillance or undercover operations; and
- (3) The application contains an original signature of the head of the requesting agency or department or, in the case of a federal agency, the signature of the senior ranking officer for that agency in this State.

Confidential license plates issued under this subsection shall be issued on an annual basis and the Division shall maintain a separate registration file for vehicles bearing confidential license plates. That file shall be confidential for the use of the Division and is not a public record within the meaning of Chapter 132 of the General Statutes. Upon

the annual renewal of the registration of a vehicle for which a confidential status has been established under this section, the registration shall lose its confidential status unless the agency or department supplies the Director of the State Bureau of Investigation with information demonstrating that an officer's personal safety remains at risk or that the vehicle is still primarily used for surveillance or undercover operations at the time of renewal."

**SECTION 4.** G.S. 20-39.1(g) reads as rewritten:

"(g) The Commissioner may, upon the request of the Director of the State Bureau of Investigation and to the extent necessary, lawfully provide local, State, and federal law enforcement officers on special undercover assignments and to agents of the Department of Defense with motor vehicle drivers licenses and motor vehicle license plates under assumed names, using false or fictitious addresses. Fictitious license plates shall only be used on publicly owned or leased vehicles. A request for fictitious licenses and license plates by a local, State or federal law enforcement agency or department or by the Department of Defense shall be made in writing to the Director of the State Bureau of Investigation and shall contain an original signature of the head of the requesting agency or department or, in the case of a federal agency, the signature of the senior ranking officer for that agency in this State.

Prior to the issuance of any fictitious license or license plate, the Director of the State Bureau of Investigation shall make a specific written finding that the request is justified and necessary. The Director shall maintain a record of all such licenses, license plates, assumed names, false or fictitious addresses, and law enforcement officers using the licenses or license plates. That record shall be confidential and is not a public record within the meaning of Chapter 132 of the General Statutes. The Director shall request the immediate return of any license or registration that is no longer necessary.

Licenses and license plates provided under this subsection shall expire six months after initial issuance unless the Director of the State Bureau of Investigation has approved an extension in writing. The head of the local, State, or federal law enforcement agency or the Department of Defense shall be responsible for the use of the licenses and license plates and shall return them immediately to the Director for cancellation upon either (i) their expiration, (ii) request of the Director of the State Bureau of Investigation, or (iii) request of the Commissioner. Failure to return a license or license plate issued pursuant to this subsection shall be punished as a Class 2 misdemeanor. At no time shall the number of valid licenses issued under this subsection exceed two hundred nor shall the number of valid license plates issued under this subsection exceed one hundred twenty-five unless the Director determines that exceptional circumstances justify exceeding those amounts. However, fictitious licenses and license plates issued to special agents of the State Bureau of ~~Investigation~~ and Investigation, State alcohol law enforcement ~~agents~~ agents, and the Department of Defense shall not be counted against the limitation on the total number of fictitious licenses and plates established by this subsection and shall be renewable annually."

**SECTION 5.** Sections 1 and 2 of this act become effective January 1, 2004. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 28<sup>th</sup> day of May, 2003.

Became law upon approval of the Governor at 11:42 p.m. on the 4<sup>th</sup> day of June, 2003.



## H.B. 1003

## Session Law 2003-153

## AN ACT RELATING TO STATE GOVERNMENT INFORMATION TECHNOLOGY SECURITY.

*The General Assembly of North Carolina enacts:*

**SECTION 1.(a)** G.S. 147-33.82 is amended by adding a new section to read:

"(e1) The State Chief Information Officer shall assess the ability of each agency to comply with the current security enterprise-wide set of standards established pursuant to this section. The assessment shall include, at a minimum, the rate of compliance with the standards in each agency and an assessment of each agency's security organization, network security architecture, and current expenditures for information technology security. The assessment shall also estimate the cost to implement the security measures needed for agencies to fully comply with the standards. Each agency subject to the standards shall submit information required by the State Chief Information Officer for purposes of this assessment. Not later than May 4, 2004, the Information Resources Management Commission and the State Chief Information Officer shall submit a public report that summarizes the status of the assessment, including the available estimates of additional funding needed to bring agencies into compliance, to the Joint Legislative Commission on Governmental Operations and shall provide updated assessment information by January 15 of each subsequent year."

**SECTION 1.(b)** G.S. 147-33.82(f) reads as rewritten:

"(f) The head of each State agency shall cooperate with the State Chief Information Officer in the discharge of his or her duties by:

- (1) Providing the full details of the agency's information technology and operational ~~requirements~~requirements and of all the agency's information technology security incidents within 24 hours of confirmation.
- (2) Providing comprehensive information concerning the information technology security employed to protect the agency's information technology.
- (3) Forecasting the parameters of the agency's projected future information technology security needs and capabilities.
- (4) Designating an agency liaison in the information technology area to coordinate with the State Chief Information Officer. The liaison shall be subject to a criminal background report from the State Repository of Criminal Histories, which shall be provided by the State Bureau of Investigation upon its receiving fingerprints from the liaison. If the liaison has been a resident of this State for less than five years, the background report shall include a review of criminal information from both the State and National Repositories of Criminal Histories. The criminal background report shall be provided to the State Chief Information Officer and the head of the agency. In addition, all personnel in the Office of State Auditor who are responsible for information technology security reviews pursuant to G.S. 147-64.6(c)(18) shall be subject to a criminal background report from the State Repository of Criminal Histories, which shall be provided by the State Bureau of Investigation upon receiving fingerprints from the personnel designated by the State Auditor. For designated personnel

who have been residents of this State for less than five years, the background report shall include a review of criminal information from both the State and National Repositories of Criminal Histories. The criminal background reports shall be provided to the State Auditor.

The information provided by State agencies to the State Chief Information Officer under this subsection is protected from public disclosure pursuant to G.S. 132-6.1(c)."

**SECTION 2.** Article 3D of Chapter 147 of the General Statutes is amended by adding a new section to read:

**"§ 147-33.89. Business continuity planning.**

(a) Each State agency shall develop and continually review and update as necessary a business and disaster recovery plan with respect to information technology. Each agency shall establish a disaster recovery planning team to develop the disaster recovery plan and to administer implementation of the plan. In developing the plan, the disaster recovery planning team shall do all of the following:

- (1) Consider the organizational, managerial, and technical environments in which the disaster recovery plan must be implemented.
- (2) Assess the types and likely parameters of disasters most likely to occur and the resultant impacts on the agency's ability to perform its mission.
- (3) List protective measures to be implemented in anticipation of a natural or man-made disaster.

(b) Each State agency shall submit its disaster recovery plan on an annual basis to the Information Resource Management Commission and the State Chief Information Officer."

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

In the General Assembly read three times and ratified this the 28<sup>th</sup> day of May, 2003.

Became law upon approval of the Governor at 11:45 p.m. on the 4<sup>th</sup> day of June, 2003.

**H.B. 987**

**Session Law 2003-154**

AN ACT TO AUTHORIZE THE FISHERIES DIRECTOR TO ISSUE PROCLAMATIONS THAT BECOME EFFECTIVE IMMEDIATELY UPON ISSUANCE AND TO MAKE OTHER TECHNICAL, CLARIFYING, AND CONFORMING CHANGES.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 113-221 reads as rewritten:

**"§ 113-221. ~~Rules; proclamations; emergency Commission meetings.~~Rules."**

(a) Chapter 150B of the General Statutes governs the adoption of rules under this Article, ~~other than proclamations issued under this Article. Chapter 150B does not apply to proclamations issued under this Article.~~

(b) Upon purchasing a license, each licensee shall be given a copy of the rules concerning the activities authorized by the license.

(c) The Fisheries Director shall notify licensees of a new rule or change to a rule by sending each licensee either a newsletter containing the text of the rule or change or an updated codification of the rules of the Marine Fisheries Commission that contains the new rule or change.

(d) ~~Unless there are overriding policy considerations involved, any rule of the Marine Fisheries Commission which will in the judgment of the Marine Fisheries Commission that will result in severe curtailment of the usefulness or value of equipment in which fishermen have any substantial investment should~~ shall be given ~~such~~ a future effective date so as to minimize undue potential economic loss to fishermen. Whether or not any provision may cause potential economic loss rule will result in severe curtailment of the usefulness or value of equipment in which fishermen have any substantial investment and whether or not a future effective date should be set is a matter within the complete sole discretion of the Marine Fisheries Commission. The Marine Fisheries Commission need not set any future effective date more than two years in advance of the passage of any rule. This subsection does not require the Marine Fisheries Commission to establish an effective date that is more than two years later than the date on which the rule is adopted.

(e) ~~The Marine Fisheries Commission may delegate to the Fisheries Director the authority to issue proclamations suspending or implementing, in whole or in part, particular rules of the Commission which may be affected by variable conditions. Such proclamations are to be issued by the Fisheries Director or by a person designated by the Fisheries Director. All proclamations must state the hour and date upon which they become effective and must be issued at least 48 hours in advance of the effective date and time. In those situations in which the proclamation prohibits the taking of certain fisheries resources for reasons of public health, the proclamation can be made effective immediately upon issuance. Notwithstanding any other provisions of this subsection, a proclamation can be issued at least 12 hours in advance of the effective date and time to reopen the taking of certain fisheries resources closed for reason of public health through a prior proclamation made effective immediately upon issuance. Persons violating any proclamation which is made effective immediately shall not be charged with a criminal offense during the time between the issuance and 48 hours after such issuance unless such person had actual notice of the issuance of such proclamation. Fisheries resources taken or possessed by any person in violation of any proclamation may be seized regardless of whether such person had actual notice of the proclamation. A permanent file of the text of all proclamations shall be maintained in the office of the Fisheries Director. Certified copies of proclamations are entitled to judicial notice in any civil or criminal proceeding.~~

~~The Fisheries Director must make every reasonable effort to give actual notice of the terms of any proclamation to the persons who may be affected thereby. Reasonable effort includes press releases to communications media, posting of notices at docks and other places where persons affected may gather, personal communication by inspectors and other agents of the Fisheries Director, and such other measures designed to reach the persons who may be affected. It is a defense to an enforcement action for a violation of a proclamation that a licensee was prevented from receiving notice of the proclamation due to a natural disaster or other act of God occasioned exclusively by violence of nature without interference of any human agency and that could not have been prevented or avoided by the exercise of due care or foresight.~~

(e1) ~~Pursuant to the request of five or more members of the Marine Fisheries Commission, its chairman may call an emergency meeting of the Commission to review: (1) a proposed issuance or issuance of proclamations under the authority delegated to the Fisheries Director pursuant to (e) of this section, except those proclamations issued for reasons of public health; or (2) the need to issue a proclamation to allow the taking of certain fisheries resources in areas not opened~~

~~through proclamations issued by the Fisheries Director. At least 48 hours prior to any such meeting, a public announcement of the meeting shall be issued that describes the action requested by the members of the Commission; and the Department must make every reasonable effort to give actual notice of the meeting to persons who may be affected thereby. After its review is complete, the Marine Fisheries Commission, consistent with its duty to protect, preserve, and enhance the commercial and sports fisheries resources of the State, may (1) approve, cancel, or modify the proposed proclamation or issued proclamation under review; or (2) direct the Fisheries Director to issue a proclamation that allows the taking of certain fisheries resources.~~

~~The variable conditions that affect such resource management decisions require that these emergency meetings and any resulting orders by the Commission be exempt from the provisions of Article 2A of Chapter 150B. The decisions of the Marine Fisheries Commission shall be the final decision of the State and shall not be set aside on judicial review unless found to be arbitrary and capricious.~~

(f) ~~All persons who may be affected by them rules adopted by the Marine Fisheries Commission are under a duty to keep themselves informed of current rules of the Marine Fisheries Commission and proclamations of the Fisheries Director.~~ the current rules. It is no defense in any criminal prosecution for the defendant to show that he ~~the defendant~~ in fact received no notice of a particular rule or proclamation rule. In any prosecution for violation of ~~the provisions of any rule or proclamation,~~ a rule, or in which proof of matter contained in a ~~rule or proclamation~~ is involved, the Department is deemed to have complied with publication procedures and the burden is on the defendant to show by the greater weight of the evidence substantial failure of compliance by the Department with the required publication procedures.

(g) Every court ~~must~~ shall take judicial notice of any codification of rules issued by the Fisheries Director within two years preceding the date of the offense charged or transaction in issue. In the absence of any indication to the contrary, ~~such~~ the codifications are to be deemed accurate and current statements of the text of the rules in question and it is incumbent upon any person asserting that a relevant portion of the codified text is inaccurate, or has been amended or deleted, to satisfy the court as to the text of the rules ~~which~~ that is in fact properly applicable.

(h) Repealed by Session Laws 1983, c. 221, s. 1."

**SECTION 2.** Article 17 of Chapter 113 of the General Statutes is amended by adding a new section to read:

**"§ 113-221.1. Proclamations; emergency review.**

(a) Chapter 150B of the General Statutes does not apply to proclamations issued under this Article.

(b) The Marine Fisheries Commission may delegate to the Fisheries Director the authority to issue proclamations suspending or implementing, in whole or in part, particular rules of the Commission that may be affected by variable conditions. These proclamations shall be issued by the Fisheries Director or by a person designated by the Fisheries Director. Except as provided in this subsection, all proclamations shall state the hour and date upon which they become effective and shall be issued at least 48 hours in advance of the effective date and time. A proclamation that prohibits the taking of certain fisheries resources for reasons of public health or that governs a quota-managed fishery may be made effective immediately upon issuance. A proclamation to reopen the taking of certain fisheries resources closed for reasons of public health shall be issued at least 12 hours in advance of the effective date and time of the reopening. A person who violates a proclamation that is made effective

immediately upon issuance shall not be charged with a criminal offense for the violation if the violation occurred between the time of issuance and 48 hours after the issuance and the person did not have actual notice of the issuance of the proclamation. Fisheries resources taken or possessed by any person in violation of any proclamation may be seized regardless of whether the person had actual notice of the proclamation. A permanent file of the text of all proclamations shall be maintained in the office of the Fisheries Director. Certified copies of proclamations are entitled to judicial notice in any civil or criminal proceeding. The Fisheries Director shall make every reasonable effort to give actual notice of the terms of any proclamation to persons who may be affected by the proclamation. Reasonable effort includes a press release to communications media, posting of a notice at docks and other places where persons affected may gather, personal communication by inspectors and other agents of the Fisheries Director, and other measures designed to reach the persons who may be affected. It is a defense to an enforcement action for a violation of a proclamation that a person was prevented from receiving notice of the proclamation due to a natural disaster or other act of God occasioned exclusively by violence of nature without interference of any human agency and that could not have been prevented or avoided by the exercise of due care or foresight.

(c) All persons who may be affected by proclamations issued by the Fisheries Director are under a duty to keep themselves informed of current proclamations. It is no defense in any criminal prosecution for the defendant to show that the defendant in fact received no notice of a particular proclamation. In any prosecution for violation of a proclamation, or in which proof of matter contained in a proclamation is involved, the Department is deemed to have complied with publication procedures; and the burden is on the defendant to show, by the greater weight of the evidence, substantial failure of compliance by the Department with the required publication procedures.

(d) Pursuant to the request of five or more members of the Marine Fisheries Commission, the Chair of the Marine Fisheries Commission may call an emergency meeting of the Commission to review an issuance or proposed issuance of proclamations under the authority delegated to the Fisheries Director pursuant to subsection (b) of this section or to review the desirability of directing the Fisheries Director to issue a proclamation to prohibit or allow the taking of certain fisheries resources. At least 48 hours prior to any emergency meeting called pursuant to this subsection, a public announcement of the meeting shall be issued that describes the action requested by the members of the Marine Fisheries Commission. The Department shall make every reasonable effort to give actual notice of the meeting to persons who may be affected. After its review is complete, the Marine Fisheries Commission, consistent with its duty to protect, preserve, and enhance the commercial and sports fisheries resources of the State, may approve, cancel, or modify the previously issued or proposed proclamation under review or may direct the Fisheries Director to issue a proclamation that prohibits or allows the taking of certain fisheries resources. An emergency meeting called pursuant to this subsection and any resulting orders issued by the Marine Fisheries Commission are exempt from the provisions of Article 2A of Chapter 150B of the General Statutes. The decisions of the Marine Fisheries Commission shall be the final decision of the State and shall not be set aside on judicial review unless found to be arbitrary and capricious."

**SECTION 3.** G.S. 143B-289.52(a)(8) reads as rewritten:

"§ 143B-289.52. **Marine Fisheries Commission – powers and duties.**

(a) The Marine Fisheries Commission shall adopt rules to be followed in the management, protection, preservation, and enhancement of the marine and estuarine resources within its jurisdiction, as described in G.S. 113-132, including commercial and sports fisheries resources. The Marine Fisheries Commission shall have the power and duty:

- ...
- (8) To delegate to the Fisheries Director the authority by proclamation to suspend or implement, in whole or in part, a particular rule of the Commission that may be affected by variable conditions as provided in ~~G.S. 113-221(e)~~.G.S. 113-221.1."

**SECTION 4.** This act becomes effective July 1, 2003.

In the General Assembly read three times and ratified this the 28<sup>th</sup> day of May, 2003.

Became law upon approval of the Governor at 11:46 p.m. on the 4<sup>th</sup> day of June, 2003.

## H.B. 278

## Session Law 2003-155

AN ACT TO AMEND THE LAW REGARDING EXAMINATIONS FOR LICENSURE TO PRACTICE CHIROPRACTIC.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 90-143 reads as rewritten:

"§ 90-143. **Definitions of chiropractic; examinations; educational requirements.**

(a) "Chiropractic" is herein defined to be the science of adjusting the cause of disease by realigning the spine, releasing pressure on nerves radiating from the spine to all parts of the body, and allowing the nerves to carry their full quota of health current (nerve energy) from the brain to all parts of the body.

(b) It shall be the duty of the North Carolina State Board of Chiropractic Examiners (hereinafter referred to as "Board") to examine for licensure to practice chiropractic in this State any applicant who is or will become, within 60 days of examination, a graduate of a four-year chiropractic college that is either accredited by the Council on Chiropractic Education or deemed by the Board to be the equivalent of such a college and who furnishes to the Board, in the manner prescribed by the Board, all of the following:

- (1) Satisfactory evidence of good moral character.
- (2) Proof that the applicant has received a baccalaureate degree from a college or university accredited by a regional accreditation body recognized by the United States Department of Education.
- (3) A transcript confirming that the applicant has received at least 4,200 hours of accredited chiropractic education. The Board shall not count any hours earned at an institution that was not accredited by the Council on Chiropractic Education or was not, as determined by the Board, the equivalent of such an institution at the time the hours were earned.

The examination shall ~~include, but not be limited to,~~ include the following studies: neurology, chemistry, pathology, anatomy, histology, physiology, embryology,

dermatology, diagnosis, microscopy, gynecology, hygiene, eye, ear, nose and throat, orthopody, diagnostic radiology, North Carolina jurisprudence, palpation, nerve tracing, chiropractic philosophy, theory, teaching and practice of chiropractic, and any other related studies as the Board may consider necessary to determine an applicant's fitness to practice. The Board may include as part of the examination any examination developed and administered by the National Board of Chiropractic Examiners or its successor organization that the Board considers appropriate, and the examination may be administered by a national testing service. The Board shall set the passing scores for all parts of the examination.

(c) The Board shall not issue a license to any applicant until the applicant exhibits a diploma or other proof that the Doctor of Chiropractic degree has been conferred.

(d) The Board may grant a license to an applicant if the applicant's scores on all parts of the examination given by the National Board of Chiropractic Examiners required by the Board equal or exceed passing scores on the Board's examination, set by the Board and the applicant satisfies all other requirements for licensure as provided in this Article."

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

In the General Assembly read three times and ratified this the 28<sup>th</sup> day of May, 2003.

Became law upon approval of the Governor at 11:50 p.m. on the 4<sup>th</sup> day of June, 2003.

**S.B. 776**

**Session Law 2003-156**

AN ACT TO CLARIFY THE DEFINITION OF EMPLOYEE UNDER THE WORKERS' COMPENSATION ACT.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 97-2(2) reads as rewritten:

"(2) Employee. – The term 'employee' means every person engaged in an employment under any appointment or contract of hire or apprenticeship, express or implied, oral or written, including aliens, and also minors, whether lawfully or unlawfully employed, but excluding persons whose employment is both casual and not in the course of the trade, business, profession, or occupation of his employer, and as relating to those so employed by the State, the term 'employee' shall include all officers and employees of the State, including such as are elected by the people, or by the General Assembly, or appointed by the Governor to serve on a per diem, part-time or fee basis, either with or without the confirmation of the Senate; as relating to municipal corporations and political subdivisions of the State, the term 'employee' shall include all officers and employees thereof, including such as are elected by the people. The term 'employee' shall include members of the North Carolina national guard while on State active duty under orders of the Governor and members of the North Carolina State Defense Militia while on State active duty under orders of the Governor. The term 'employee' shall include deputy sheriffs and all persons acting in the capacity of deputy

sheriffs, whether appointed by the sheriff or by the governing body of the county and whether serving on a fee basis or on a salary basis, or whether deputy sheriffs serving upon a full-time basis or a part-time basis, and including deputy sheriffs appointed to serve in an emergency, but as to those so appointed, only during the continuation of the emergency. The sheriff shall furnish to the board of county commissioners a complete list of all deputy sheriffs named or appointed by him immediately after their appointment and notify the board of commissioners of any changes made therein promptly after such changes are made. Any reference to an employee who has been injured shall, when the employee is dead, include also his legal representative, dependents, and other persons to whom compensation may be payable: Provided, further, that any employee, as herein defined, of a municipality, county, or of the State of North Carolina, while engaged in the discharge of his official duty outside the jurisdictional or territorial limits of the municipality, county, or the State of North Carolina and while acting pursuant to authorization or instruction from any superior officer, shall have the same rights under this Article as if such duty or activity were performed within the territorial boundary limits of his employer.

Every executive officer elected or appointed and empowered in accordance with the charter and bylaws of a corporation shall be considered as an employee of such corporation under this Article.

Any such executive officer of a corporation may, notwithstanding any other provision of this Article, be exempt from the coverage of the corporation's insurance contract by such corporation's specifically excluding such executive officer in such contract of insurance, and the exclusion to remove such executive officer from the coverage shall continue for the period such contract of insurance is in effect, and during such period such executive officers thus exempted from the coverage of the insurance contract shall not be employees of such corporation under this Article.

All county agricultural extension service employees who do not receive official federal appointments as employees of the United States Department of Agriculture and who are field faculty members with professional rank as designated in the memorandum of understanding between the North Carolina Agricultural Extension Service, North Carolina State University, A & T State University, and the boards of county commissioners shall be deemed to be employees of the State of North Carolina. All other county agricultural extension service employees paid from State or county funds shall be deemed to be employees of the county board of commissioners in the county in which the employee is employed for purposes of workers' compensation.

The term 'employee' shall also include members of the Civil Air Patrol currently certified pursuant to G.S. 143B-491(a) when performing duties in the course and scope of a State-approved mission pursuant to Article 11 of Chapter 143B of the General Statutes.



'Employee' shall not include any person performing voluntary service as a ski patrolman who receives no compensation for such services other than meals or lodging or the use of ski tow or ski lift facilities or any combination thereof.

Any sole proprietor or partner of a business or any member of a limited liability company may elect to be included as an employee under the workers' compensation coverage of such business if he is actively engaged in the operation of the business and if the insurer is notified of his election to be so included. Any such sole proprietor or partner or member of a limited liability company shall, upon such election, be entitled to employee benefits and be subject to employee responsibilities prescribed in this Article.

'Employee' shall include an authorized pickup firefighter of the Division of Forest Resources of the Department of Environment and Natural Resources when that individual is engaged in emergency fire suppression activities for the Division of Forest Resources. As used in this section, 'authorized pickup firefighter' means an individual who has completed required fire suppression training as a wildland firefighter and who is available as needed by the Division of Forest Resources for emergency fire suppression activities, including immediate dispatch to wildfires and standby for initial attack on fires during periods of high fire danger.

It shall be a rebuttable presumption that the term 'employee' shall not include any person performing services in the sale of newspapers or magazines to ultimate consumers under an arrangement whereby the newspapers or magazines are to be sold by that person at a fixed price and the person's compensation is based on the retention of the excess of the fixed price over the amount at which the newspapers or magazines are charged to the person."

**SECTION 2.** This act is effective when it becomes law and applies to any claim arising on or after that date.

In the General Assembly read three times and ratified this the 28<sup>th</sup> day of May, 2003.

Became law upon approval of the Governor at 11:51 p.m. on the 4<sup>th</sup> day of June, 2003.

**S.B. 136**

**Session Law 2003-157**

**AN ACT TO CLARIFY THE LAW GOVERNING DISSENTERS' RIGHTS WITH REGARD TO MAJORITY CONSENT ACTION.**

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 55-13-02(a) reads as rewritten:

"(a) In addition to any rights granted under Article 9, a shareholder is entitled to dissent from, and obtain payment of the fair value of his shares in the event of, any of the following corporate actions:

- (1) Consummation of a plan of merger to which the corporation (other than a parent corporation in a merger whose shares are not affected under G.S. 55-11-04) is a party unless (i) approval by the shareholders

- of that corporation is not required under G.S. 55-11-03(g) or (ii) such shares are then redeemable by the corporation at a price not greater than the cash to be received in exchange for such shares;
- (2) Consummation of a plan of share exchange to which the corporation is a party as the corporation whose shares will be acquired, unless such shares are then redeemable by the corporation at a price not greater than the cash to be received in exchange for such shares;
  - (2a) Consummation of a plan of conversion pursuant to Part 2 of Article 11A of this Chapter;
  - (3) Consummation of a sale or exchange of all, or substantially all, of the property of the corporation other than as permitted by G.S. 55-12-01, including a sale in dissolution, but not including a sale pursuant to court order or a sale pursuant to a plan by which all or substantially all of the net proceeds of the sale will be distributed in cash to the shareholders within one year after the date of sale;
  - (4) An amendment of the articles of incorporation that materially and adversely affects rights in respect of a dissenter's shares because it (i) alters or abolishes a preferential right of the shares; (ii) creates, alters, or abolishes a right in respect of redemption, including a provision respecting a sinking fund for the redemption or repurchase, of the shares; (iii) alters or abolishes a preemptive right of the holder of the shares to acquire shares or other securities; (iv) excludes or limits the right of the shares to vote on any matter, or to cumulate ~~votes;~~votes, other than an amendment of the articles of incorporation permitting action without meeting to be taken by less than all shareholders entitled to vote, without advance notice, or both, as provided in G.S. 55-7-04; (v) reduces the number of shares owned by the shareholder to a fraction of a share if the fractional share so created is to be acquired for cash under G.S. 55-6-04; or (vi) changes the corporation into a nonprofit corporation or cooperative organization; or
  - (5) Any corporate action taken pursuant to a shareholder vote to the extent the articles of incorporation, bylaws, or a resolution of the board of directors provides that voting or nonvoting shareholders are entitled to dissent and obtain payment for their shares."

**SECTION 2.** This act becomes effective October 1, 2003.

In the General Assembly read three times and ratified this the 27<sup>th</sup> day of May, 2003.

Became law upon approval of the Governor at 12:35 p.m. on the 5<sup>th</sup> day of June, 2003.

**S.B. 769**

**Session Law 2003-158**

AN ACT TO ESTABLISH RATE SETTING AND RATE-APPROVAL METHODS FOR THE BEACH PLAN HOMEOWNERS POLICY, TO PROVIDE INCENTIVES TO BEACH AND COASTAL AREA HOMEOWNERS WHO ESTABLISH AND MAINTAIN RISK PREVENTION AND RISK MITIGATION MEASURES, AND TO EXTEND THE DEADLINE FOR ISSUANCE OF THE HOMEOWNERS POLICY PRODUCT BY THE BEACH PLAN.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 58-45-30(d) reads as rewritten:

"(d) As used in this subsection, "homeowners' insurance policy" means a multiperil policy providing full coverage of residential property similar to the coverage provided under an HO-2, HO-3, HO-4, or HO-6 policy under Article 36 of this Chapter. The Association shall issue, for principal residences, homeowners' insurance policies approved by the Commissioner. Homeowners' insurance policies shall be available to persons who reside in the beach and coastal areas who meet the Association's underwriting standards and who are unable to obtain homeowners' insurance policies from insurers that are authorized to transact and are actually writing homeowners' insurance policies in this State. The Association shall file for approval by the Commissioner underwriting standards to determine whether property is insurable. The standards shall reflect underwriting standards commonly used in the voluntary homeowners' insurance business. The terms and conditions of the homeowners' insurance policies available under this subsection shall not be more favorable than those of homeowners' insurance policies available in the voluntary market in beach and coastal counties. ~~Rates for the homeowners' insurance policies authorized by this subsection shall be set pursuant to rate standards set forth in G.S. 58-40-20(a), and the provisions of G.S. 58-45-45(a) shall not apply.~~"

**SECTION 2.** G.S. 58-45-35 is amended by adding a new subsection to read:

"(b1) If the Association determines that the property, for which application for a homeowners' policy is made, is insurable, that there is no unpaid premium due from the applicant for prior insurance on the property, and that the underwriting guidelines established by the Association and approved by the Commissioner are met, the Association, upon receipt of the premium, or part of the premium, as is prescribed in the plan of operation, shall cause to be issued a homeowners' insurance policy."

**SECTION 3.** G.S. 58-45-45 reads as rewritten:

"§ 58-45-45. **Rates, rating plans, rating rules, and forms applicable.**

(a) Except as provided in subsection (b) of this section, the rates, rating plans, rating rules, and forms applicable to the insurance written by the Association shall be in accordance with the most recent manual rates or adjusted loss costs and forms that are legally in effect in the State. ~~No~~ Except as provided in subsection (c) of this section, no special surcharge, other than those presently in effect, may be applied to the property insurance rates of properties located in the beach ~~area~~ and coastal areas.

(b) The rates, rating plans, and rating rules for the separate policies of windstorm and hail insurance described in G.S. 58-45-35(b) shall be filed by the Association with the Commissioner for the Commissioner's approval, disapproval, or modification. The provisions of Articles 40 and 41 of this Chapter shall govern the filings. Policy deductible plans, consistent with G.S. 58-45-1(b), may be filed by the Association with the Commissioner for the Commissioner's approval, disapproval, or modification.

(c) Notwithstanding subsection (a) of this section, the Association may, subject to the prior approval of the Commissioner, adopt a schedule of special surcharges relating to homeowners' insurance policies issued by the Association pursuant to G.S. 58-45-30(d). Such schedule may reflect any differences in risk that can be demonstrated to have a probable effect on losses or expenses. Notwithstanding subsections (a) and (b) of this section, the provisions of G.S. 58-36-10(1), 36-15(a), 58-36-20, and 58-36-25 shall apply to such filings."

**SECTION 3.1.** Section 9 of S.L. 2002-185 reads as rewritten:

"**Section 9.** Part II of this act becomes effective ~~May 1, 2003~~ July 1, 2003. Part IV of this act becomes effective January 1, 2003. The remainder of this act is effective when it becomes law."

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

In the General Assembly read three times and ratified this the 27<sup>th</sup> day of May, 2003.

Became law upon approval of the Governor at 12:37 p.m. on the 5<sup>th</sup> day of June, 2003.

## H.B. 42

## Session Law 2003-159

### AN ACT MODIFYING THE FELONY AND MISDEMEANOR OFFENSES RELATED TO CONDUCTING CERTAIN UNAUTHORIZED SOUND AND VIDEO RECORDINGS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 14-432 reads as rewritten:

#### "§ 14-432. Definitions.

As used in this Article "~~owner~~" means ~~the person who owns the sounds fixed in any master phonograph record, master disc, master tape, master film or other device used for reproducing recorded sounds on phonograph records, discs, tapes, films or other articles on which sound is or can be recorded and from which the transferred sounds are directly or indirectly derived, or the person who owns the rights to record or authorize the recording of a live performance; "article" means the tangible medium upon which sounds or images are recorded or any original phonograph record, disc, tape, audio or video cassette, wire, film or other medium now known or later developed on which sounds or images are or can be recorded or otherwise stored, or any copy or reproduction which duplicates, in whole or in part, the original.~~ The following definitions apply in this Article:

- (1) "Article" means the tangible medium upon which sounds or images are recorded or otherwise stored, including any original phonograph record, disc, tape, audio or video cassette, wire, film, or other medium now known or later developed on which sounds or images, or both, can be recorded or otherwise stored, or any copy or reproduction which duplicates, in whole or in part, the original.
- (2) "Fixed" means that the work has been recorded in a tangible medium of expression, by or under the authority of the author, and its embodiment is sufficiently permanent or stable to permit it to be perceived, reproduced, or otherwise communicated for a period of more than transitory duration. A work consisting of sounds or images, or both, that are being transmitted is "fixed" for the purposes of this section if a fixation of the work is being made simultaneously with its transmission.
- (3) "Owner" means the person who owns the sounds fixed in any master phonograph record, master disc, master tape, master film, or other device used for reproducing recorded sounds on phonograph records, discs, tapes, films, or other articles on which sound is or can be recorded and from which the transferred sounds are directly or

indirectly derived, or the person who owns the rights to record or authorize the recording of a live performance."

**SECTION 2.** G.S. 14-433 reads as rewritten:

**"§ 14-433. Recording of live ~~concerts~~ performances or recorded sounds and distribution, etc., of such recordings unlawful in certain circumstances.**

(a) It shall be unlawful for any person to:

(1) Knowingly transfer or cause to be transferred, directly or indirectly by any means, any sounds recorded on a phonograph record, disc, wire, tape, film or other article on which sounds are recorded, with the intent to sell or cause to be sold, or to use or cause to be used for profit through public performance, such article on which sounds are so transferred, without consent of the ~~owner,~~ owner.

(2) Manufacture, distribute, wholesale or transport any article for profit, or possess for ~~such~~ these purposes with the knowledge that the sounds recorded on the article were transferred in violation of subdivision (a)(1) of this section. ~~are so transferred, without consent of the owner,~~

(a1) It shall be unlawful for any person to:

~~(3)~~(1) Knowingly transfer or cause to be transferred, directly or indirectly by any means, any sounds at a live ~~concert,~~ performance, with the intent to sell or cause to be sold, or to use or cause to be used for profit through public performance, ~~such~~ the article on which sounds are so transferred, without consent of the ~~owner,~~ owner.

~~(4)~~(2) Manufacture, distribute, transport or wholesale any ~~such~~ article for profit, or possess for ~~such~~ those purposes with the knowledge that the sounds recorded on the article were transferred in violation of subdivision (a1)(1) of this section. ~~are so transferred, without consent of the owner.~~

(b) Subdivisions (a)(1) and (a)(2) of this section shall apply only to sound recordings that were initially fixed prior to February 15, 1972. Federal copyright law, 17 U.S.C. § 101 et seq., preempts State prosecution of the acts described in subdivisions (a)(1) and (a)(2) with respect to sound recordings initially fixed on or after February 15, 1972.

(c) This section shall not apply to any person engaged in webcasting or radio or television broadcasting who transfers, or causes to be transferred, any such sounds other than from the sound track of a motion picture intended for, or in connection with webcast, broadcast or telecast transmission or related uses, or for archival purposes. An Internet service provider who is solely providing a conduit for access to the Internet, shall not be deemed to be using, or causing to be used, recordings that may be transferred over the Internet by third parties in violation of this Article."

**SECTION 3.** G.S. 14-435 reads as rewritten:

**"§ 14-435. Recorded devices to show true name and address of manufacturer.**

~~Ninety days after January 1, 1975, every article knowingly sold or transferred or possessed for the purpose of sale, advertising or offering for sale or resale, renting or transporting or causing to be rented or transported by any manufacturer, distributor, or wholesale or retail merchant shall contain on its packaging the true name and address of the manufacturer. The term "manufacturer" shall not include the manufacturer of the cartridge or casing itself.~~

(a) A person is guilty of failure to disclose the origin of an article when, for commercial advantage or private financial gain, the person knowingly advertises or

offers for sale or resale, or sells or resells, or causes the rental, sale, or resale, or rents, or manufactures, or possesses for these purposes, any article, the packaging, cover, box, jacket, or label of which does not clearly and conspicuously disclose the actual true name and address of the manufacturer of the article and the name of the actual author, artist, performer, producer, programmer, or group.

(b) This section does not require the original manufacturer or authorized licensees of software producers to disclose the contributing authors or programmers. As used in this section, the term "manufacturer" shall not include the manufacturer of the article's packaging, cover, box, jacket, or label itself."

**SECTION 4.** G.S. 14-436 reads as rewritten:

"§ 14-436. **Recorded devices; civil action for damages.**

Any owner of an article as defined in this ~~Chapter~~ Article whose work is allegedly the subject of a violation of G.S. 14-433 or ~~14-434~~, G.S. 14-434, shall have a cause of action in the courts of this State for all damages resulting ~~therefrom~~, from the violation, including actual, compensatory and incidental damages."

**SECTION 5.** G.S. 14-437(a) reads as rewritten:

"(a) Every individual act in contravention of the provisions of this Article shall constitute a Class 1 misdemeanor, except that the offense is a Class I felony with a maximum fine of one hundred fifty thousand dollars (\$150,000) if (i) the offense involves at least 100 unauthorized articles during any 180-day period, or (ii) is a third or subsequent conviction for an offense that involves at least 26 unauthorized articles during any 180-day period.

~~(1) A Class I felony, which may include a fine of not more than one hundred fifty thousand dollars (\$150,000), if the offense involves at least 1,000 unauthorized sound recordings or at least 100 unauthorized audio visual recordings during any 180-day period or is a second or subsequent conviction under either subdivision (1) or (2) of this section;~~

~~(2) A Class 1 misdemeanor, if the offense involves more than 100 but less than 1,000 unauthorized sound recordings or more than 10 but less than 100 unauthorized audio visual recordings during any 180-day period;~~

~~(3) A Class 2 misdemeanor, for any other violation of these sections."~~

**SECTION 6.** This act becomes effective December 1, 2003, and applies to offenses committed on or after that date. Prosecutions for offenses committed before the effective date of this act are not abated or affected by this act, and the statutes that would be applicable but for this act remain applicable to those prosecutions.

In the General Assembly read three times and ratified this the 27<sup>th</sup> day of May, 2003.

Became law upon approval of the Governor at 12:40 p.m. on the 5<sup>th</sup> day of June, 2003.

## H.B. 1158

## Session Law 2003-160

AN ACT TO AMEND THE LAW SPECIFYING THE TYPE OF PISTOLS THAT MAY BE USED FOR HUNTING.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 113-291.1 reads as rewritten:

"(g) If a season is open permitting such method of taking for the species in question, a hunter may take rabbits, squirrels, opossum, raccoons, fur-bearing animals, and nongame animals and birds open to hunting with a pistol of .22 caliber with a barrel not less than ~~six inches in length and loaded with long-rifle ammunition.~~ five and one-half inches in length. In addition, a hunter or trapper lawfully taking a wild animal or wild bird by another lawful method may use a knife, pistol, or other swift method of killing the animal or bird taken. The Wildlife Resources Commission may, however, restrict or prohibit the carrying of firearms during special seasons or in special areas reserved for the taking of wildlife with primitive weapons or other restricted methods."

**SECTION 2.** This act becomes effective October 1, 2003.

In the General Assembly read three times and ratified this the 27<sup>th</sup> day of May, 2003.

Became law upon approval of the Governor at 12:42 p.m. on the 5<sup>th</sup> day of June, 2003.

**S.B. 292**

**Session Law 2003-161**

AN ACT AUTHORIZING THE CITY OF RALEIGH AND THE TOWN OF LAKE WACCAMAW TO USE ELECTRONIC MEANS TO PROVIDE PUBLIC NOTICE FOR CERTAIN PUBLIC HEARINGS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Section 22 of the Charter of the City of Raleigh, being Chapter 1184 of the 1949 Session Laws, as amended, is amended by adding the following new subsection:

"(87) Electronic Notice of Hearings. The City Council may adopt ordinances providing that notice of public hearings may be given through electronic means, including, but not limited to, the City's Internet site. Ordinances adopted pursuant to this section shall not supersede any State law that requires notice by mail to certain classes of people or the posting of signs on certain property and shall not alter the publication schedule for any public notice."

**SECTION 2.** The governing body of the Town of Lake Waccamaw may adopt ordinances providing that notice of public hearings may be given through electronic means, including, but not limited to, the Town's Internet site. Ordinances adopted pursuant to this section shall not supersede any State law that requires notice by mail to certain classes of people or the posting of signs on certain property and shall not alter the publication schedule for any public notice.

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

In the General Assembly read three times and ratified this the 5<sup>th</sup> day of June, 2003.

Became law on the date it was ratified.

**H.B. 249**

**Session Law 2003-162**

AN ACT TO PERMIT THE CITY OF WILMINGTON TO ENGAGE IN CONDITIONAL ZONING.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Chapter 495 of the 1977 Session Laws, as amended, being the Charter of the City of Wilmington, is amended by adding a new section to Article XXIII:

"Section 23.6.(a) In addition to other types of zoning districts permitted by G.S. 160A-382, the City Council may provide for the establishment of conditional zoning districts, including parallel conditional zoning districts. For purposes of this act, a "conditional zoning district" shall be defined as a zoning district in which the development and use of the property included in the district is subject to predetermined ordinance standards and the rules, regulations, and conditions imposed as part of the legislative decision creating the district and applying it to the particular property. "Parallel conditional zoning district" shall mean a conditional zoning district in which the potential permitted use or uses are, except as limited by the conditions imposed on the district, of the same character or type as the use or uses permitted in a general use district having a parallel designation or name. In contrast to conditional use district or special use district zoning, conditional zoning shall not require the issuance of a conditional use or special use permit or permitting process apart from the establishment of the district and its application to particular properties. Rules, regulations, and conditions applicable to any conditional zoning district need not be uniform in all respects for all properties within the same classification of conditional zoning district but may differ based on the unique aspects of each conditional zoning district development, site, and surrounding area.

Section 23.6.(b) Property may be rezoned to a conditional zoning district only in response to and consistent with a petition of the owners of all of the property to be included in the district. A petition for conditional zoning must include a site plan and supporting information that specifies the actual use or uses intended for the property and any rules, regulations, and conditions that, in addition to all predetermined ordinance requirements, will govern the development and use of the property. If a petition for conditional zoning is approved, the development and use of the property shall be governed by the predetermined ordinance requirements applicable to such district category, the approved site plan for the district, and any additional approved rules, regulations, and conditions, all of which shall constitute the zoning regulations for the approved district.

Section 23.6.(c) Conditional zoning decisions shall be made in consideration of identified relevant adopted land-use plans for the area including, but not limited to, comprehensive plans, strategic plans, district plans, area plans, neighborhood plans, corridor plans, and other land-use policy documents.

Section 23.6.(d) Before a public hearing may be held on a petition for conditional zoning, the petitioner must file in the Office of the City Clerk a written report of at least one community meeting held by the petitioner. Notice of such a meeting shall be given to the property owners and organizations entitled to notice as determined by city policy. The report shall include, among other things, a listing of those persons and organizations contacted about the meeting and the manner and date of contact; the date, time, and location of the meeting; a roster of the persons in attendance at the meeting; a summary of issues discussed at the meeting; and a description of any changes to the rezoning petition made by the petitioner as a result of the meeting. In the event the petitioner has not held at least one meeting pursuant to this subsection, the petitioner shall file a report documenting efforts that were made to arrange such a meeting and stating the reasons such a meeting was not held. The adequacy of a meeting held or



report filed pursuant to this subsection shall be considered by the City Council but shall not be subject to judicial review.

Section 23.6.(e) Conditional zoning decisions under this act are a legislative process subject to judicial review using the same procedures and standard of review as apply to general use district zoning decisions.

Section 23.6.(f) Except as specifically modified by this act, the procedures to be followed by the City Council in reviewing, granting, or denying any petition for conditional zoning shall be the same as those established for general use district zoning petitions under Article 19 of Chapter 160A of the General Statutes.

Section 23.6.(g) The City Council may not vote to rezone property to a conditional zoning district during the time period beginning on the date of a municipal general election and concluding on the date immediately following the date on which the City Council holds its organizational meeting following a municipal general election unless no person spoke against the rezoning at the public hearing and no valid protest petition under G.S. 160A-386 was filed. If a valid protest petition under G.S. 160A-386 has been filed against a zoning petition which would otherwise have been scheduled for a public hearing during the period beginning on the first day of October prior to a municipal general election, but prior to the new City Council taking office, then the public hearing on such petition and any decision on such petition shall both be postponed until after the new City Council takes office."

**SECTION 2.** S.L. 1981-258 is repealed.

**SECTION 3.** This act applies only to conditional zoning petitions filed on or after October 1, 2003, and shall not affect any rezoning case that is the subject of pending litigation.

**SECTION 4.** This act applies to the City of Wilmington only.

**SECTION 5.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 9<sup>th</sup> day of June, 2003.

Became law on the date it was ratified.

## **H.B. 501**

## **Session Law 2003-163**

### **AN ACT REDRAWING THE ELECTION DISTRICT BOUNDARIES FOR THE TOWN OF ENFIELD IN HALIFAX COUNTY.**

Whereas, the Enfield Town Board of Commissioners consists of five members, four of whom are elected from two districts; and

Whereas, those districts, designated as Districts A and B, are subject to the requirements of one-person, one-vote and were redrawn following the 2000 census; and

Whereas, before the districts were redrawn, the boundary was the CSX railroad track which runs through the middle of town and is an obvious and well-known dividing line; and

Whereas, as a result of the 2001 redistricting, the current boundary between Districts A and B is irregular and confusing; and

Whereas, an annexation which occurred after the 2001 redistricting has added sufficient population to the Town that Districts A and B would be within the correct population ranges for one-person, one-vote if the old boundary, the railroad track, were used; and

Whereas, a return to the railroad track as the boundary between Districts A and B would make the line more understandable to voters, candidates, and election officials; and

Whereas, the Enfield Town Board of Commissioners unanimously has requested such a change; Now, therefore,

*The General Assembly of North Carolina enacts:*

**SECTION 1.** The boundary between Districts A and B used for the election of the Enfield Town Board of Commissioners shall be the CSX railroad track which runs on a north-south line through the middle of the Town. This restores the language of Section 2.1(b) of the Charter of the Town of Enfield as enacted by Chapter 479 of the 1993 Session Laws.

**SECTION 2.** The boundary established by this act shall apply to any town election for which filing opens at least five days after the boundary has taken effect.

**SECTION 3.** The boundary established by this act shall take effect upon preclearance pursuant to section 5 of the Voting Rights Act of 1965.

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

In the General Assembly read three times and ratified this the 9<sup>th</sup> day of June, 2003.

Became law on the date it was ratified.

#### **H.B. 550**

#### **Session Law 2003-164**

AN ACT TO PROHIBIT HUNTING FROM THE RIGHT-OF-WAY OF CERTAIN ROADS IN CRAVEN COUNTY.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** It is unlawful to hunt, take, or kill any wild animal or bird on or from the right-of-way of State Road 1459 (Riverside Road) from Riverside Church north to its intersection with State Road 1460 (St. John's Road).

**SECTION 2.** It is unlawful to hunt, take, or kill any wild animal or bird on or from the right-of-way of State Road 1460 (St. John's Road) from its intersection with State Road 1459 (Riverside Road) west to the Pitt County line.

**SECTION 3.** Violation of this act is a Class 3 misdemeanor.

**SECTION 4.** This act is enforceable by law enforcement officers of the Wildlife Resources Commission, by sheriffs and deputy sheriffs, and by other peace officers with general subject matter jurisdiction.

**SECTION 5.** This act becomes effective October 1, 2003.

In the General Assembly read three times and ratified this the 9<sup>th</sup> day of June, 2003.

Became law on the date it was ratified.

#### **H.B. 625**

#### **Session Law 2003-165**

AN ACT AUTHORIZING THE CITY OF ASHEVILLE TO REQUIRE PRETOWING NOTICES BEFORE A MOTOR VEHICLE MAY BE TOWED FROM A PRIVATE LOT, GARAGE, OR OTHER PARKING FACILITY.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Section 2 of S.L. 2001-46 reads as rewritten:

"**SECTION 2.** This act applies to the ~~City~~ Cities of Asheville and Greenville and the Town of Chapel Hill only."

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

In the General Assembly read three times and ratified this the 9<sup>th</sup> day of June, 2003.

Became law on the date it was ratified.

**H.B. 668**

**Session Law 2003-166**

AN ACT TO MODIFY THE ADMINISTRATIVE PROVISIONS OF THE NEW HANOVER COUNTY OCCUPANCY TAX.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Section 34(b)(1) of Part VIII of Chapter 908 of the 1983 Session Laws, as amended by Chapter 987 of the 1983 Session Laws, Chapters 726 and 971 of the 1985 Session Laws, Chapter 540 of the 1995 Session Laws, and S.L. 2002-138, reads as rewritten:

"(1) The ex officio members are listed below. Each ex officio member may designate to serve in the member's place an individual who ~~is actively involved in promoting travel and tourism in the local community the member represents or who owns or manages a lodging facility in the local community the member represents.~~ serves on the governing body of the county or municipality that the member represents.

- a. The chair of the board of county commissioners.
- b. The mayor of the City of Wilmington.
- c. The mayors of the beach towns."

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

In the General Assembly read three times and ratified this the 9<sup>th</sup> day of June, 2003.

Became law on the date it was ratified.

**H.B. 1093**

**Session Law 2003-167**

AN ACT TO MAKE TECHNICAL AMENDMENTS TO THE NORTH CAROLINA INSURANCE GUARANTY ASSOCIATION ACT.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 58-48-20 reads as rewritten:

"§ 58-48-20. **Definitions.**

As used in this Article:

- (1) "Account" means any one of the three accounts created by G.S. 58-48-25.
- (1a) "Affiliate" means a person who directly, or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with an insolvent insurer on December 31 of the year next preceding the date the insurer becomes an insolvent insurer.

- (2) "Association" means the North Carolina Insurance Guaranty Association created under G.S. 58-48-25.
- (2a) "Claimant" means any insured making a first party claim or any person instituting a liability claim; provided that no person who is an affiliate of the insolvent insurer may be a claimant.
- (3) Repealed by Session Laws 1991, c. 720, s. 6.
- (3a) "Control" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by ~~contract~~ contract, other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly owns, controls, holds with the power to vote, or holds proxies representing ten percent (10%) or more of the voting securities of any other person. This presumption may be rebutted by a showing that control does not exist in fact.
- (4) "Covered claim" means an unpaid claim, including one of unearned premiums, which is in excess of fifty dollars (\$50.00) and arises out of and is within the coverage and not in excess of the applicable limits of an insurance policy to which this Article applies as issued by an insurer, if such insurer becomes an insolvent insurer after the effective date of this Article and (i) the claimant or insured is a resident of this State at the time of the insured event; or (ii) the property from which the claim arises is permanently located in this State. "Covered claim" shall not include any amount awarded (i) as punitive or exemplary damages; (ii) sought as a return of premium under any retrospective rating plan; or (iii) due any reinsurer, insurer, insurance pool, or underwriting association, as subrogation or contribution recoveries or otherwise. "Covered claim" also shall not include fines or penalties, including attorneys fees, imposed against an insolvent insurer or its insured or claims of any claimant whose net worth exceeds fifty million dollars (\$50,000,000) on December 31 of the year preceding the date the insurer becomes insolvent.
- (5) "Insolvent insurer" means (i) an insurer licensed and authorized to transact insurance in this State either at the time the policy was issued or when the insured event occurred and (ii) against whom an order of liquidation with a finding of insolvency has been entered after the effective date of this Article by a court of competent jurisdiction in the insurer's state of domicile or of this State under the provisions of Article 30 of this Chapter, and which order of liquidation has not been stayed or been the subject of a writ of supersedeas or other comparable order.
- (6) "Member insurer" means any person who (i) writes any kind of insurance to which this Article applies under G.S. 58-48-10, including the exchange of reciprocal or interinsurance contracts, and (ii) is licensed and authorized to transact insurance in this State.

- (7) "Net direct written premiums" means direct gross premiums written in this State on insurance policies to which this Article applies, less return premiums thereon and dividends paid or credited to policyholders on such direct business. "Net direct written premiums" does not include premiums on contracts between insurers or reinsurers.
- (7a) "Ocean marine insurance" includes (i) marine insurance as defined in G.S. 58-7-15(20)a., except for inland marine, (ii) marine protection and indemnity insurance as defined in G.S. 58-7-15(21), and (iii) any other form of insurance, regardless of the name, label, or marketing designation of the insurance policy, which insures against maritime perils or risks and other related perils or risks, which are usually insured by traditional marine insurance such as hull and machinery, marine builders' risks, and marine protection and indemnity. The perils and risks insured against include loss, damage, or expense, or legal liability of the insured for loss, damage, or expense, arising out of, or incident to, ownership, operation, chartering, maintenance, use, repair, or construction of any vessel, craft, or instrumentality in use in ocean or inland waterways, including liability of the insured for personal injury, illness, death, or for loss or damage to the property of the insured or another person. "Ocean marine insurance" does not include insurance on vessels or vehicles under five tons gross weight.
- (8) "Person" means any individual, corporation, partnership, association or voluntary organization.
- (9) "Policyholder" means the person to whom an insurance policy to which this Article applies was issued by an insurer which has become an insolvent insurer.
- (10) "Resident" means:
- a. An individual domiciled in this State;
  - b. An individual formerly domiciled in this State at the time the applicable policy was issued or renewed and the term of the policy had not expired at the time of the insured event, and who at the time of the insured event had complied with the laws of the current domicile necessary to allow maintenance in force and effect of the applicable policy; or
  - c. In the case of a corporation or other entity that is not a natural person, a corporation or entity whose principal place of business is located in this State at the time of the insured event."

**SECTION 2.** G.S. 58-48-50(a1) reads as rewritten:

"(a1) The Association shall have the right to recover from the following persons the amount of any "covered claim" paid and any and all expenses incurred, including attorneys' fees and costs of defense, on behalf of such person in connection with any claim against the person or the person's affiliate pursuant to this Article:

- (1) Any insured whose net worth on December 31 of the year next preceding the date the insurer becomes insolvent exceeds fifty million dollars (\$50,000,000) and whose liability obligations to other persons are satisfied in whole or in part by payments under this Article; or
- (2) Any person who is an affiliate of the insolvent insurer and whose liability obligations to other persons are satisfied in whole or in part by payments made under this Article."

**SECTION 3.** G.S. 58-48-55(a) reads as rewritten:

"(a) Any person having a right to a defense or a claim against an insurer under any provision in an insurance policy other than a policy of an insolvent insurer which is also a covered claim, shall be required to exhaust first his rights under such policy. Any amount payable on a covered claim under this Article shall be reduced by the amount of any recovery under ~~such that~~ insurance policy. For purposes of this section, a claim under an insurance policy shall include a claim under or covered by any kind of insurance, whether it is a first-party or a third-party claim, and whether it is a policy covering the policyholder or another person liable to the claimant, and shall include, without limitation, policies of accident and health insurance, workers' compensation insurance, medical expense coverage, and all other coverage except for policies of an insolvent insurer."

**SECTION 4.** G.S. 58-48-85 reads as rewritten:**"§ 58-48-85. Stay of proceedings; reopening of default judgments.**

All proceedings in which the insolvent insurer is a party or is obligated to defend a party in any ~~court~~ court or before any administrative agency or the North Carolina Industrial Commission ~~in this State~~ shall be stayed automatically for 120 days and such additional time thereafter as may be determined by the court from the date the insolvency is determined or any ancillary proceedings are initiated in this State, whichever is later, to permit proper defense by the Association of all pending causes of action. Any party to any proceeding which is stayed pursuant to this section shall have the right, upon application and notice, to seek a vacation or modification of such stay. Any covered claims arising from any judgment under any decision, verdict or finding based on the default of the insolvent insurer or its failure to defend an insured, shall, upon application and notice by the Association be vacated and set aside by the same court in which such judgment, order, decision, verdict, or finding is entered and the Association either on its own behalf or on behalf of any insured or an insolvent insurer, shall be permitted to defend against such claim on the merits. Any party who has obtained any such judgment or order shall have the right, upon application and notice, to have the judgment or order restored if within 90 days following the entry of the judgment or order the Association has not notified such party and the court that it intends to defend the matter on the merits."

**SECTION 5.** This act is effective when it becomes law and applies to claims associated with insurers that become insolvent on or after that date.

In the General Assembly read three times and ratified this the 5<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 7:59 p.m. on the 10<sup>th</sup> day of June, 2003.

**S.B. 394****Session Law 2003-168**

AN ACT ALLOWING A CLAIM FOR EQUITABLE DISTRIBUTION TO SURVIVE THE DEATH OF A SPOUSE WHEN THE PARTIES ARE LIVING SEPARATE AND APART AT THE TIME OF DEATH AND THE CLAIM IS TIMELY FILED.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 50-20(l) reads as rewritten:

"(l) ~~A pending action for equitable distribution shall not abate upon the death of a party.~~

- (1) A claim for equitable distribution, whether an action is filed or not, survives the death of a spouse so long as the parties are living separate and apart at the time of death.
- (2) The provisions of Article 19 of Chapter 28A of the General Statutes shall be applicable to a claim for equitable distribution against the estate of the deceased spouse.
- (3) Any claim for equitable distribution against the surviving spouse made by the estate of the deceased spouse must be filed with the district court within one year of the date of death of the deceased spouse or be forever barred."

**SECTION 2.** The catch line for G.S. 50-20 reads as rewritten:

**"§ 50-20. Distribution by court of marital and divisible ~~property upon divorce-property.~~"**

**SECTION 3.** Article 19 of Chapter 28A of the General Statutes is amended by adding a new section to read:

**"§ 28A-19-19. Claims for equitable distribution.**

(a) The provisions of G.S. 28A-19-5 and G.S. 28A-19-7 shall not apply to claims for equitable distribution.

(b) The personal representative may enter into an agreement, in writing, with a claimant providing for distribution of marital or divisible property, or both, in a manner deemed by the personal representative and the claimant to be equitable. The agreement shall be filed in the clerk's office where the letters were granted and shall be a lawful voucher for the personal representative. The same may be impeached in any proceeding against the personal representative for fraud therein.

(c) Unless the claim for equitable distribution has been referred as provided in G.S. 28A-19-15, the claimant may at anytime, subject to the provisions of G.S. 28A-19-16, file an action with the district court for distribution of marital or divisible property in accordance with the provisions of G.S. 50-20."

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

In the General Assembly read three times and ratified this the 5<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 9:59 a.m. on the 12<sup>th</sup> day of June, 2003.

**H.B. 273**

**Session Law 2003-169**

AN ACT TO ENSURE THAT EMPLOYEES WHO RECEIVE VACCINATION AGAINST SMALLPOX INCIDENT TO THE ADMINISTRATION OF SMALLPOX COUNTERMEASURES BY HEALTH PROFESSIONALS UNDER SECTION 304 OF THE FEDERAL HOMELAND SECURITY ACT OF 2002 AND ANY HOUSEHOLD MEMBERS LIVING IN THE HOMES OF THESE VACCINATED EMPLOYEES WILL BE COVERED FOR ADVERSE MEDICAL REACTIONS DUE TO THE VACCINATION.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 135-40.6(8) reads as rewritten:

"(8) Other Covered Charges. –

...

u. Treatment of adverse reactions to vaccinations undertaken as smallpox countermeasures: Necessary medical services provided to a covered individual for infection with smallpox, infection with vaccinia, or any adverse medical reaction due to the vaccination."

**SECTION 2.** G.S. 97-53 reads as rewritten:

"§ 97-53. **Occupational diseases enumerated; when due to exposure to chemicals.**

The following diseases and conditions only shall be deemed to be occupational diseases within the meaning of this Article:

...

(29) Infection with smallpox, infection with vaccinia, or any adverse medical reaction when the infection or adverse reaction is due to the employee receiving in employment vaccination against smallpox incident to the Administration of Smallpox Countermeasures by Health Professionals, section 304 of the Homeland Security Act, Pub. L. No. 107-296 (Nov. 25, 2002)(to be codified at 42 U.S.C. § 233(p)), or when the infection or adverse medical reaction is due to the employee being exposed to another employee vaccinated as described in this subdivision.

...."

**SECTION 3.** Article 31 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"§ **143-300.1A. Claims arising from certain smallpox vaccinations of State employees.**

The North Carolina Industrial Commission shall have jurisdiction to hear and determine claims in accordance with the procedures set forth in this Article made against the State by a person who is permanently or temporarily living in the home of a State employee who receives in employment vaccination against smallpox incident to the Administration of Smallpox Countermeasures by Health Professionals, section 304 of the Homeland Security Act, Pub. L. No. 107-296 (Nov. 25, 2002)(to be codified at 42 U.S.C. § 233(p)) when the person contracts an infection with smallpox or an infection with vaccinia or has any adverse medical reaction due to the vaccination received by the employee. A person covered by this section shall be entitled to recover from the State damages incurred by the person that are directly attributable to the vaccination of the employee under this section. No showing of negligence is required under this section. The provisions of G.S. 143-299.1 shall not apply to claims made under this section, and contributory negligence is not a defense for claims under this section. Damages awarded under this section shall be paid in accordance with G.S. 143-291(a1) and shall be subject to the same limits as those which apply to tort claims under this Article."

**SECTION 4.** Article 3 of Chapter 126 of the General Statutes is amended by adding a new section to read:

"§ **126-8.4. No sick leave taken for absences by State employees resulting from adverse reactions to vaccination.**

(a) Absence from work by an employee shall not count against the employee's sick leave, and the employee's salary shall continue during the absence when the employee receives in employment vaccination against smallpox incident to the



Administration of Smallpox Countermeasures by Health Professionals, section 304 of the Homeland Security Act, Pub. L. No. 107-296 (Nov. 25, 2002)(to be codified at 42 U.S.C. § 233(p)) and the absence is due to the employee having an adverse medical reaction resulting from the vaccination. The provisions of this subsection shall apply for a maximum of 480 employment hours. The employing department, agency, institution, or entity may require the employee to obtain certification from a health care provider justifying the need for leave after the first 24 hours of leave taken pursuant to this subsection.

(b) Absence from work by an employee shall not count against the employee's sick leave, and the employee's salary shall continue during the absence when the employee is permanently or temporarily living in the home of a person who receives in employment vaccination against smallpox incident to the Administration of Smallpox Countermeasures by Health Professionals, section 304 of the Homeland Security Act, Pub. L. No. 107-296 (Nov. 25, 2002)(to be codified at 42 U.S.C. § 233(p)) and the absence is due to (i) the employee having an adverse medical reaction resulting from exposure to the vaccinated person, or (ii) the need to care for the vaccinated person who has an adverse medical reaction resulting from the vaccination. The provisions of this subsection shall apply for a maximum of 480 employment hours. The employing department, agency, institution, or entity may require the employee to obtain certification from a health care provider justifying the need for leave after the first 24 hours of leave taken pursuant to this subsection.

(c) Notwithstanding any other provisions of this Chapter, this section applies to all State employees."

**SECTION 5.** Part 4 of Article 7 of Chapter 160A of the General Statutes is amended by adding a new section to read:

**"§ 160A-164.1. Smallpox vaccination policy.**

All municipalities that employ firefighters, police officers, paramedics, or other first responders shall, not later than 90 days after this section becomes law, enact a policy regarding sick leave and salary continuation for those employees for absence from work due to an adverse medical reaction resulting from the employee receiving in employment vaccination against smallpox incident to the Administration of Smallpox Countermeasures by Health Professionals, section 304 of the Homeland Security Act, Pub. L. No. 107-296 (Nov. 25, 2002)(to be codified at 42 U.S.C. § 233(p))."

**SECTION 6.** Part 4 of Article 5 of Chapter 153A of the General Statutes is amended by adding a new section to read:

**"§ 153A-94.1. Smallpox vaccination policy.**

All counties that employ firefighters, law enforcement officers, paramedics, other first responders, or health department employees shall, not later than 90 days after this section becomes law, enact a policy regarding sick leave and salary continuation for those employees for absence from work due to an adverse medical reaction resulting from the employee receiving in employment vaccination against smallpox incident to the Administration of Smallpox Countermeasures by Health Professionals, section 304 of the Homeland Security Act, Pub. L. No. 107-296 (Nov. 25, 2002)(to be codified at 42 U.S.C. § 233(p))."

**SECTION 7.** In the event that federal regulatory or statutory provisions providing compensation and benefits to persons for infection with smallpox, infection with vaccinia, or any adverse medical reaction incident to the Administration of Smallpox Countermeasures by Health Professionals, section 304 of the Homeland Security Act, Pub. L. No. 107-296 (Nov. 25, 2002)(to be codified at 42 U.S.C. § 233(p))

are adopted, a condition precedent to recovery under this act shall be that the person claiming compensation and benefits under this act shall first seek compensation and benefits under the federal provisions, with those provisions constituting primary coverage and the person then being entitled to compensation and benefits under this act not exceeding a total recovery under the federal provisions and this act equal to the amount available under the applicable provisions of this act.

**SECTION 8.** The provisions of this act are severable. If any provision of this act is held invalid by a court of competent jurisdiction, the invalidity does not affect other provisions of the act that can be given effect without the invalid provision.

**SECTION 9.** This act is effective when it becomes law and applies to claims arising from infection or adverse medical reactions related to smallpox vaccinations incident to the Administration of Smallpox Countermeasures by Health Professionals, section 304 of the Homeland Security Act, Pub. L. No.107-296 (Nov. 25, 2002)(to be codified at 42 U.S.C. § 233(p)) whether the infection or adverse medical reactions occurred before, on, or after the effective date of this act.

In the General Assembly read three times and ratified this the 5<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 10:00 a.m. on the 12<sup>th</sup> day of June, 2003.

**H.B. 609****Session Law 2003-170**

**AN ACT TO ENHANCE LAWS PERTAINING TO THE AMUSEMENT DEVICE SAFETY ACT OF NORTH CAROLINA.**

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 95-111.2(b) reads as rewritten:

"(b) This Article shall not apply to any device which does not normally require the supervision or services of an operator. ~~Unless they are located in an amusement park or carnival area, the following devices or attractions are exempt from this Article:~~

- ~~(1) Hot or cold air inflatable devices;~~
- ~~(2) Bumper boats; and~~
- ~~(3) Simulator devices that simulate the movement shown on various video tapes."~~

**SECTION 2.** G.S. 95-111.5(b) reads as rewritten:

"(b) An owner of a device subject to the provisions of this Article, or his authorized agent, is hereby required to maintain for at least ~~30 days~~ the previous 12 months a signed record of the required pre-opening inspection and test and such other pertinent information as the Commissioner may require by rule or regulation."

**SECTION 3.** G.S. 95-111.8 reads as rewritten:

"§ 95-111.8. **Location notice.**

No person shall operate for the public or permit the operation for the public any device subject to the provisions of this Article after initial assembly or after reassembly at any location within this State without first notifying the Commissioner of the intention to operate for the public. Written notice of a planned schedule of operation or use shall be received at least ~~five~~ 10 days prior to the first planned date of operation or use. ~~Notice of unscheduled use shall be given immediately to the Commissioner by telephone or telegraph."~~

**SECTION 4.** G.S. 95-111.11 reads as rewritten:

**"§ 95-111.11. Operators.**

(a) Any operator of a device subject to the provisions of this Article shall be at least 18 years of age. An operator shall operate no more than one device at any given time. An operator shall be in attendance at all times the device is in operation.

(b) No person shall operate any amusement device equipment while under the influence of alcohol or any other impairing substance as defined by G.S. 20-4.01(14a). It shall be a violation of this subsection to knowingly permit the operation of any amusement device while the operator is under the influence of an impairing substance."

**SECTION 5.** G.S. 95-111.13 reads as rewritten:

**"§ 95-111.13. Violations; civil penalties; ~~appeal~~; appeal; criminal penalties.**

(a) Any person who violates G.S. 95-111.7(a) or (b) (Operation without certificate; operation not in accordance with Article or rules and regulations) shall be subject to a civil penalty not to exceed two hundred fifty dollars (\$250.00) for each day each device is so operated or used.

(b) Any person who violates G.S. 95-111.7(c) (Operation after refusal to issue or after revocation of certificate) or G.S. 95-111.10(c) (Reports required) or G.S. 95-111.12 (Liability insurance) shall be subject to a civil penalty not to exceed five hundred dollars (\$500.00) for each day each device is so operated or used.

(c) Any person who violates G.S. 95-111.8 (Location notice) shall be subject to a civil penalty not to exceed five hundred dollars (\$500.00) for each day any device is operated or used without the location notice having been provided.

(d) Any person who violates the provisions of G.S. 95-111.10(d) (Reports required) or knowingly permits the operation of an amusement device in violation of G.S. 95-111.11(a) (Operator requirements) shall be subject to a civil penalty not to exceed five hundred dollars (\$500.00).

(e) Any person who violates G.S. 95-111.9 (Operation of unsafe device) or G.S. 95-111.11(b) (Operation of an amusement device while impaired) shall be subject to a civil penalty not to exceed one thousand dollars (\$1,000).

(f) In determining the amount of any penalty ordered under authority of this section, the Commissioner shall give due consideration to the appropriateness of the penalty with respect to the size of the business of the person being charged, the gravity of the violation, the good faith of the person and the record of previous violations.

(g) The determination of the amount of the penalty by the Commissioner shall be final, unless within 15 days after receipt of notice thereof by certified mail, the person charged with the violation takes exception to the determination, in which event final determination of the penalty shall be made in an administrative proceeding and in a judicial proceeding pursuant to Chapter 150B of the General Statutes, the Administrative Procedure Act.

(h) The Commissioner may file in the office of the clerk of the superior court of the county wherein the person, against whom a civil penalty has been ordered, resides, or if a corporation is involved, in the county wherein the corporation maintains its principal place of business, or in the county wherein the violation occurred, a certified copy of a final order of the Commissioner unappealed from, or of a final order of the Commissioner affirmed upon appeal. Whereupon, the clerk of said court shall enter judgment in accordance therewith and notify the parties. Such judgment shall have the same effect, and all proceedings in relation thereto shall thereafter be the same, as though said judgment had been rendered in a suit duly heard and determined by the superior court of the General Court of Justice.

(i) Any person who willfully violates any provision of this Article, and the violation causes the death of any person, shall be guilty of a Class 2 misdemeanor, which may include a fine of not more than ten thousand dollars (\$10,000); except that if the conviction is for a violation committed after a first conviction of such person, the person shall be guilty of a Class 1 misdemeanor, which may include a fine of not more than twenty thousand dollars (\$20,000). This subsection shall not prevent any prosecuting officer of the State of North Carolina from proceeding against such person on a prosecution charging any degree of willful or culpable homicide."

**SECTION 6.** G.S. 95-111.13(i), as enacted by Section 5 of this act, becomes effective December 1, 2003, and applies to offenses committed on or after that date. Section 2 of this act becomes effective one year after this bill becomes law. The remainder of this act becomes effective October 1, 2003.

In the General Assembly read three times and ratified this the 5<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 10:01 a.m. on the 12<sup>th</sup> day of June, 2003.

**H.B. 925****Session Law 2003-171**

AN ACT TO ALLOW COUNTY APPEAL IN JUVENILE "PAY ORDER" CASES.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 7B-2604 reads as rewritten:

"§ 7B-2604. **Proper parties for appeal.**

(a) An appeal may be taken by the juvenile, the juvenile's parent, guardian, or custodian, a county, or the State.

(b) The State's appeal is limited to the following orders in delinquency or undisciplined cases:

- (1) An order finding a State statute to be unconstitutional; and
- (2) Any order which terminates the prosecution of a petition by upholding the defense of double jeopardy, by holding that a cause of action is not stated under a statute, or by granting a motion to suppress.

(c) A county's appeal is limited to orders in which the county has been ordered to pay for medical, surgical, psychiatric, psychological, or other evaluation or treatment of a juvenile pursuant to G.S. 7B-2502, or other medical, psychiatric, psychological, or other evaluation or treatment of a parent pursuant to G.S. 7B-2702."

**SECTION 2.** This act becomes effective October 1, 2003, and applies to petitions for appeal filed on or after that date.

In the General Assembly read three times and ratified this the 5<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 10:02 a.m. on the 12<sup>th</sup> day of June, 2003.

**H.B. 941****Session Law 2003-172**

AN ACT PROVIDING FOR THE ANALYSIS OF THE STATE'S LEGACY INFORMATION TECHNOLOGY SYSTEMS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Article 3D of Chapter 147 of the General Statutes is amended by adding a new section to read:

**"§ 147-33.89. Analysis of State agency legacy systems.**

(a) The Office of Information Technology Services, in conjunction with the Information Resources Management Commission, shall analyze the State's legacy information technology systems and develop a plan to ascertain the needs, costs, and time frame required for State agencies to progress to more modern information technology systems.

(b) In conducting the legacy system assessment phase of the analysis, the Office shall:

- (1) Examine the hierarchical structure and interrelated relationships within and between State agency legacy systems.
- (2) Catalog and analyze the portfolio of legacy applications in use in State agencies and consider the extent to which new applications could be used concurrently with, or should replace, legacy systems.
- (3) Consider issues related to migration from legacy environments to Internet-based and client/server environments, and related to the availability of programmers and other information technology professionals with the skills to migrate legacy applications to other environments.
- (4) Study any other issue relative to the assessment of legacy information technology systems in State agencies.

By March 1, 2004, the Office shall complete the assessment phase of the analysis and shall make a report of the assessment to the Joint Legislative Commission on Governmental Operations (Commission). Thereafter, the Office shall make an ongoing annual report on these matters to the Commission by March 1 of each year.

(c) Upon completion of the legacy system assessment phase of the analysis, the Office shall ascertain the needs, costs, and time frame required to modernize State agency information technology. The Office shall complete this phase of the assessment by January 31, 2005, and shall report its findings and recommendations to the 2005 General Assembly. The findings and recommendations shall include a cost estimate and time line for modernization of legacy information technology systems in State agencies. The Office shall submit an ongoing, updated report on modernization needs, costs, and time lines to the General Assembly on the opening day of each biennial session."

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

In the General Assembly read three times and ratified this the 5<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 10:03 a.m. on the 12<sup>th</sup> day of June, 2003.

**H.B. 1201**

**Session Law 2003-173**

AN ACT TO PROMOTE WATER CONSERVATION BY EXPANDING THE DEFINITION OF CONTIGUOUS PREMISES TO INCLUDE MANUFACTURED HOMES AND MANUFACTURED HOME PARKS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 62-110(g) reads as rewritten:

"(g) For the purpose of encouraging water conservation, the Commission may, consistent with the public interest, adopt procedures that allow a lessor, pursuant to a written rental agreement, to allocate the costs for providing water and sewer service on a metered use basis to persons who occupy the same contiguous premises. A written rental agreement shall specify a monthly rent that shall be the sum of the base rent plus additional rent at a rate that does not exceed the actual purchase price of the water and sewer service to the provider plus a reasonable administrative fee. The Commission shall issue rules to define contiguous premises and to implement this subsection. In issuing the rule to define contiguous premises, the Commission shall consider contiguous premises where manufactured homes, as defined in G.S. 143-145(7), or spaces for manufactured homes are rented. Notwithstanding any other provision of this Chapter, the Commission shall determine the extent to which the services shall be regulated and, to the extent necessary to protect the public interest, regulate the terms, conditions, and rates that may be allocated for the services. Nothing in this subsection shall be construed to alter the rights, obligations, or remedies of persons providing water and sewer services and their customers under any other provision of law."

**SECTION 2.** In enacting Section 1 of this act, it is the intent of the General Assembly to promote water conservation while protecting public health, safety, welfare, and the environment and avoiding unduly burdensome requirements on consecutive water systems. Section 1 of this act shall not be construed to impose any requirement on a supplying water system other than the requirements that apply to the water system on the date this act becomes effective and that would apply to the supplying water system if a consecutive water system had not been authorized.

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

In the General Assembly read three times and ratified this the 5<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 10:03 a.m. on the 12<sup>th</sup> day of June, 2003.

## H.B. 1181

## Session Law 2003-174

### AN ACT REQUIRING THE REINSPECTION OF WORKPLACES WHERE WILLFUL SERIOUS VIOLATIONS HAVE BEEN FOUND.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 95-136(a) reads as rewritten:

"(a) In order to carry out the purposes of this Article, the Commissioner or Director, or their duly authorized agents, upon presenting appropriate credentials to the owner, operator, or agent in charge, are authorized:

- (1) To enter without delay, and at any reasonable time, any factory, plant, establishment, construction site, or other area, work place or environment where work is being performed by an employee of an employer; and
- (2) To inspect and investigate during regular working hours, and at other reasonable times, and within reasonable limits, and in a reasonable manner, any such place of employment and all pertinent conditions, processes, structures, machines, apparatus, devices, equipment, and materials therein, and to question privately any such employer, owner, operator, agent or employee.

- (3) The Commissioner or Director, or their duly authorized agents, shall reinspect any place of employment where a willful serious violation was found to exist during the previous inspection and a final Order has been entered."

**SECTION 2.** This act becomes effective January 1, 2004, and applies to all inspections conducted on or after that date.

In the General Assembly read three times and ratified this the 5<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 10:04 a.m. on the 12<sup>th</sup> day of June, 2003.

**S.B. 647**

**Session Law 2003-175**

AN ACT TO MAKE STATEWIDE AN ACT CURRENTLY APPLICABLE TO MECKLENBURG AND CATAWBA COUNTIES AND CHARLOTTE AND RALEIGH THAT DEEMS THE CREATION OF A SELF-FUNDED RISK PROGRAM AS THE PURCHASE OF INSURANCE FOR THE PURPOSE OF WAIVING GOVERNMENTAL IMMUNITY.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 160A-485(a) reads as rewritten:

"(a) Any city is authorized to waive its immunity from civil liability in tort by the act of purchasing liability insurance. Participation in a local government risk pool pursuant to Article 23 of General Statute Chapter 58 shall be deemed to be the purchase of insurance for the purposes of this section. Immunity shall be waived only to the extent that the city is indemnified by the insurance contract from tort liability. No formal action other than the purchase of liability insurance shall be required to waive tort immunity, and no city shall be deemed to have waived its tort immunity by any action other than the purchase of liability insurance. If a city uses a funded reserve instead of purchasing insurance against liability for wrongful death, negligence, or intentional damage to personal property, or absolute liability for damage to person or property caused by an act or omission of the city or any of its officers, agents, or employees acting within the scope of their authority and the course of their employment, the city council may adopt a resolution that deems the creation of a funded reserve to be the same as the purchase of insurance under this section. Adoption of such a resolution waives the city's governmental immunity only to the extent specified in the council's resolution, but in no event greater than funds available in the funded reserve for the payment of claims."

**SECTION 2.** G.S. 153A-435(a) reads as rewritten:

"(a) A county may contract to insure itself and any of its officers, agents, or employees against liability for wrongful death or negligent or intentional damage to person or property or against absolute liability for damage to person or property caused by an act or omission of the county or of any of its officers, agents, or employees when acting within the scope of their authority and the course of their employment. The board of commissioners shall determine what liabilities and what officers, agents, and employees shall be covered by any insurance purchased pursuant to this subsection.

Purchase of insurance pursuant to this subsection waives the county's governmental immunity, to the extent of insurance coverage, for any act or omission occurring in the exercise of a governmental function. Participation in a local government risk pool

pursuant to Article 23 of General Statute Chapter 58 shall be deemed to be the purchase of insurance for the purposes of this section. By entering into an insurance contract with the county, an insurer waives any defense based upon the governmental immunity of the county.

If a county uses a funded reserve instead of purchasing insurance against liability for wrongful death, negligence, or intentional damage to personal property, or absolute liability for damage to person or property caused by an act or omission of the county or any of its officers, agents, or employees acting within the scope of their authority and the course of their employment, the county board of commissioners may adopt a resolution that deems the creation of a funded reserve to be the same as the purchase of insurance under this section. Adoption of such a resolution waives the county's governmental immunity only to the extent specified in the board's resolution, but in no event greater than funds available in the funded reserve for the payment of claims."

**SECTION 3.** Section 1 of Chapter 980 of the 1988 Session Laws and Section 2 of S.L. 1998-200, as amended by S.L. 2002-79, are repealed, but any resolution adopted under those sections and still effective on the effective date of this act shall continue to be valid as if they were adopted under G.S. 153A-435(a) or G.S. 160A-485(a) as amended by this act.

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

In the General Assembly read three times and ratified this the 4<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 10:05 a.m. on the 12<sup>th</sup> day of June, 2003.

## S.B. 648

## Session Law 2003-176

### AN ACT TO ESTABLISH AN AD HOC CERVICAL CANCER ELIMINATION TASK FORCE TO THE ADVISORY COMMITTEE ON CANCER COORDINATION AND CONTROL.

*The General Assembly of North Carolina enacts:*

**SECTION 1.(a)** A standing ad hoc task force on cervical cancer elimination is established pursuant to this act to serve the Advisory Committee on Cancer Coordination and Control. The ad hoc task force shall be called the Cervical Cancer Elimination Task Force (Task Force). The Task Force shall perform the duties specified in subsection (j) of this section.

**SECTION 1.(b)** The Task Force shall have 24 members. The Chair and Vice-Chair of the Advisory Committee on Cancer Coordination and Control, the Director of the Division of Public Health in the Department of Health and Human Services, the Director of the Division of Medical Assistance in the Department of Health and Human Services, and the Chair and Vice-Chair of the North Carolina's Legislative Women's Caucus, or their designees, shall be members of the Task Force. The following additional members shall be appointed:

- (1) By the President Pro Tempore of the Senate, as follows:
  - a. One member of the Senate;
  - b. Two representatives from the North Carolina's Legislative Women's Caucus;
  - c. A representative of a women's health organization;



- d. A representative from the American Academy of Pediatrics; and
  - e. A certified schoolteacher.
- (2) By the Speaker(s) of the House of Representatives, as follows:
- a. One member of the House;
  - b. Two representatives from the North Carolina's Legislative Women's Caucus;
  - c. A member of the American Cancer Society who is an oncologist;
  - d. A member of the health insurance industry; and
  - e. A member from the American College of Obstetrics and Gynecology.
- (3) By the Governor, as follows:
- a. A member of the American Academy of Family Physicians;
  - b. The State Epidemiologist;
  - c. Two members at large;
  - d. A news director of a newspaper or television or radio station; and
  - e. A licensed registered nurse.

The Governor shall choose a Chair from among the members of the Task Force. The Task Force shall elect a Vice-Chair from its members.

**SECTION 1.(c)** Each appointing authority shall assure, insofar as possible, that its appointees to the Task Force reflect the composition of the North Carolina population with regard to ethnic, racial, age, and religious composition.

**SECTION 1.(d)** The General Assembly and the Governor shall make their appointments to the Task Force not later than 30 days after the adjournment of the 2003 Regular Session of the General Assembly. The original appointing authority, using the criteria set out in this section for the original appointment, shall fill a vacancy on the Task Force.

**SECTION 1.(e)** The Task Force shall meet at least quarterly or more frequently at the call of the Chair.

**SECTION 1.(f)** The Task Force Chair may establish committees for the purpose of making special studies pursuant to its duties and may appoint non-Task-Force members to serve on each committee as resource persons. Resource persons shall be voting members of the committees. Committees may meet with the frequency needed to accomplish the purposes of this section.

**SECTION 1.(g)** Members of the Task Force shall receive per diem and necessary travel and subsistence expenses in accordance with G.S. 120-3.1, 138-5, and 138-6, as applicable.

**SECTION 1.(h)** A majority of the Task Force shall constitute a quorum for the transaction of its business.

**SECTION 1.(i)** The Task Force shall have the following duties:

- (1) To obtain from the Division of Public Health the Division's review of statistical and qualitative data on the prevalence and burden of cervical cancer.
- (2) In collaboration with the Advisory Committee on Cancer Coordination and Control and the Division of Public Health of the Department of Health and Human Services, raise public awareness on the causes and nature of cervical cancer, personal risk factors, value of prevention,

- early detection, options for testing, treatment costs, new technology, medical care reimbursement, and physician education.
- (3) To identify priority strategies, new technologies, or newly introduced vaccines which are effective in preventing and controlling the risk of cervical cancer.
  - (4) To identify and examine the limitations of existing laws, regulations, programs, and services with regard to coverage and awareness issues for cervical cancer, including amending G.S. 58-51-57 to require every policy or contract of accident or health insurance, and every preferred provider benefit plan under G.S. 58-50-56, that is issued, renewed, or amended on or after January 1, 2004, to provide coverage for PAP smears and mammograms in accordance with the most recently published American Cancer Society guidelines.
  - (5) To develop a statewide comprehensive Cervical Cancer Prevention Plan and strategies for Plan implementation and for promoting the Plan to the general public, State and local elected officials, and various public and private organizations, associations, businesses, industries, and agencies.
  - (6) To identify strategies to facilitate specific commitments to help implement the Plan from the entities listed in subdivision (8) of this subsection.
  - (7) To facilitate coordination of and communication among State and local agencies and organizations regarding current or future involvement in achieving the aims of the Cervical Cancer Task Force Plan.
  - (8) To receive and to consider reports and testimony from individuals, local health departments, community-based organizations, voluntary health organizations, and other public and private organizations statewide to learn more about their contributions to cervical cancer diagnosis, prevention, and treatment and more about their ideas for improving cervical cancer prevention, diagnosis, and treatment in North Carolina.

**SECTION 1.(j)** Beginning April 1, 2004, and on April 1 each year thereafter, the Task Force shall submit a report to the Advisory Committee on Cancer Coordination and Control. At the time the Task Force submits its report to the Advisory Committee, the Task Force shall also present its report to the North Carolina's Legislative Women's Caucus, the Governor, and the Joint Legislative Commission on Governmental Operations. Each annual report shall address:

- (1) Progress being made in fulfilling the duties of the Task Force and in developing the Cervical Cancer Plan.
- (2) The anticipated time frame for completion of the Prevention Plan.
- (3) Recommended strategies or actions to reduce the occurrence of and burdens suffered from cervical cancer by citizens of the State.

**SECTION 1.(k)** The Task Force shall expire on April 1, 2008, or upon submission of the Task Force's final report to the Advisory Committee on Cancer Coordination and Control, to the Governor, and to the 2008 Regular Session of the 2007 General Assembly, whichever occurs earlier.

**SECTION 2.** The Department of Health and Human Services, Division of Public Health, shall use funds appropriated to it for the 2003-2004 fiscal year to implement this act.

**SECTION 3.** This act becomes effective July 1, 2003.

In the General Assembly read three times and ratified this the 4<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 10:05 a.m. on the 12<sup>th</sup> day of June, 2003..

**H.B. 344**

**Session Law 2003-177**

AN ACT REQUIRING THE MOTOR FLEET MANAGEMENT DIVISION TO USE BEST MANAGEMENT PRACTICES IN OPERATING THE CENTRAL MOTOR POOL, TO USE A FORMULA TO DETERMINE THE MOST COST-EFFECTIVE REPLACEMENT OF VEHICLES, AND TO REPORT SEMIANNUALLY TO THE GENERAL ASSEMBLY ON THE COST SAVINGS RESULTING FROM USE OF THE FORMULA.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 143-341(8)i.4. reads as rewritten:

"§ 143-341. **Powers and duties of Department.**

The Department of Administration has the following powers and duties:

...  
(8) General Services:

...  
i. To establish and operate a central motor pool and such subsidiary related facilities as the Secretary may deem necessary, and to that end:

...  
4. To maintain, store, repair, dispose of, and replace state-owned motor vehicles under the control of the ~~Department.~~Department, using best management practices. The Department shall ensure that state-owned vehicles are ~~not normally replaced until they have been driven for 110,000 miles or more.~~when most cost effective using a replacement formula developed by the Department and reviewed periodically for appropriateness of use. The Department shall report semiannually to the cochairs of the Joint Appropriations Subcommittee on General Government, on or before October 15 and March 15, on the effect of any new or revised replacement formula on the cost of operating the central motor pool, including the amount of any savings from use of any new or revised replacement formula."

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

In the General Assembly read three times and ratified this the 2<sup>nd</sup> day of June, 2003.

Became law upon approval of the Governor at 10:06 a.m. on the 12<sup>th</sup> day of June, 2003.

AN ACT TO AUTHORIZE THE SECRETARY OF HEALTH AND HUMAN SERVICES TO TEMPORARILY WAIVE CERTAIN REQUIREMENTS OF THE MENTAL HEALTH COMMITMENT STATUTES TO FURTHER MENTAL HEALTH REFORM EFFORTS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** The Secretary of Health and Human Services may, upon request of a phase-one local management entity, waive temporarily the requirements of G.S. 122C-261 through G.S. 122C-263 and G.S. 122C-281 through G.S. 122C-283 pertaining to initial (first-level) examinations by a physician or eligible psychologist of individuals meeting the criteria of G.S. 122C-261(a) or G.S. 122C-281(a), as applicable, as follows:

- (1) The Secretary has received a request from a phase-one local management entity to substitute for a physician or eligible psychologist, a licensed clinical social worker, a masters level psychiatric nurse, or a masters level certified clinical addictions specialist to conduct the initial (first-level) examinations of individuals meeting the criteria of G.S. 122C-261(a) or G.S. 122C-281(a). The waiver shall be implemented on a pilot-program basis. The request from the local management entity shall be submitted as part of the entity's local business plan and shall specifically describe:
  - a. How the purpose of the statutory requirement would be better served by waiving the requirement and substituting the proposed change under the waiver.
  - b. How the waiver will enable the local management entity to improve the delivery or management of mental health, developmental disabilities, and substance abuse services.
  - c. How the services to be provided by the licensed clinical social worker, the masters level psychiatric nurse, or the masters level certified clinical addictions specialist under the waiver are within each of these professional's scope of practice.
  - d. How the health, safety, and welfare of individuals will continue to be at least as well protected under the waiver as under the statutory requirement.
- (2) The Secretary shall review the request and may approve it upon finding that:
  - a. The request meets the requirements of this section.
  - b. The request furthers the purposes of State policy under G.S. 122C-2 and mental health, developmental disabilities, and substance abuse services reform.
  - c. The request improves the delivery of mental health, developmental disabilities, and substance abuse services in the counties affected by the waiver and also protects the health, safety, and welfare of individuals receiving these services.
  - d. The duties and responsibilities performed by the licensed clinical social worker, the masters level psychiatric nurse, or the

masters level certified clinical addictions specialist are within the individual's scope of practice.

- (3) The Secretary shall evaluate the effectiveness, quality, and efficiency of mental health, developmental disabilities, and substance abuse services and protection of health, safety, and welfare under the waiver. The Secretary shall send a report on the evaluation to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substances Abuse Services on or before July 1, 2006.
- (4) The waiver granted by the Secretary under this section shall be in effect for a period not to exceed three years, or the period for which the requesting local management entity's business plan is approved, whichever is shorter.
- (5) The Secretary may grant a waiver under this section to up to five local management entities that have been designated as phase-one entities as of July 1, 2003.
- (6) In no event shall the substitution of a licensed clinical social worker, masters level psychiatric nurse, or masters level certified clinical addictions specialist under a waiver granted under this section be construed as authorization to expand the scope of practice of the licensed clinical social worker, the masters level psychiatric nurse, or the masters level certified clinical addictions specialist.
- (7) The Department shall assure that staff performing the duties are trained and privileged to perform the functions identified in the waiver. The Department shall involve stakeholders including, but not limited to, the North Carolina Psychiatric Association, The North Carolina Nurses Association, National Association of Social Workers, The North Carolina Substance Abuse Professional Certification Board, North Carolina Psychological Association, The North Carolina Society for Clinical Social Work, and the North Carolina Medical Society in developing required staff competencies.
- (8) The local management entity shall assure that a physician is available at all times to provide backup support to include telephone consultation and face-to-face evaluation, if necessary.

**SECTION 2.** This act becomes effective July 1, 2003, and expires July 1, 2006.

In the General Assembly read three times and ratified this the 5<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 10:06 a.m. on the 12<sup>th</sup> day of June, 2003.

**S.B. 897**

**Session Law 2003-179**

AN ACT TO EXEMPT FROM PRIOR AUTHORIZATION REQUIREMENTS FOR PRESCRIPTION DRUGS UNDER THE MEDICAID PROGRAM ANTIHEMOPHILIC DRUGS PRESCRIBED FOR THE TREATMENT OF HEMOPHILIA AND BLOOD DISORDERS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Part 6 of Article 2 of Chapter 108A of the General Statutes is amended by adding the following new section to read:

**"§ 108A-68.1. Certain prescription drugs exempt from prior authorization requirements.**

Prior authorization shall not be required or utilized for any antihemophilic factor drugs prescribed for the treatment of hemophilia and blood disorders where there is no generically equivalent drug available. Nothing in this section shall prohibit the Secretary from implementing a disease management program."

**SECTION 2.** This act is effective when it becomes law and expires July 1, 2006.

In the General Assembly read three times and ratified this the 4<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 10:07 a.m. on the 12<sup>th</sup> day of June, 2003.

**S.B. 692**

**Session Law 2003-180**

AN ACT TO PROVIDE THAT CERTAIN INFORMATION CONCERNING PLANS TO RESPOND TO TERRORIST ACTIVITY ARE NOT SUBJECT TO THE PUBLIC RECORDS OR OPEN MEETINGS LAWS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 132-1.7 reads as rewritten:

**"§ 132-1.7. Sensitive public security information.**

(a) Public records, as defined in G.S. 132-1, shall not include information containing specific details of public security plans and arrangements or the detailed plans and drawings of public buildings and infrastructure facilities.

(b) Public records as defined in G.S. 132-1 do not include plans to prevent or respond to terrorist activity, to the extent such records set forth vulnerability and risk assessments, potential targets, specific tactics, or specific security or emergency procedures, the disclosure of which would jeopardize the safety of governmental personnel or the general public or the security of any governmental facility, building, structure, or information storage system.

(c) Information relating to the general adoption of public security plans and arrangements, and budgetary information concerning the authorization or expenditure of public funds to implement public security plans and arrangements, or for the construction, renovation, or repair of public buildings and infrastructure facilities shall be public records."

**SECTION 2.** G.S. 143-318.11(a) reads as rewritten:

"(a) Permitted Purposes. – It is the policy of this State that closed sessions shall be held only when required to permit a public body to act in the public interest as permitted in this section. A public body may hold a closed session and exclude the public only when a closed session is required:

- (1) To prevent the disclosure of information that is privileged or confidential pursuant to the law of this State or of the United States, or not considered a public record within the meaning of Chapter 132 of the General Statutes.

- (2) To prevent the premature disclosure of an honorary degree, scholarship, prize, or similar award.
- (3) To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged. General policy matters may not be discussed in a closed session and nothing herein shall be construed to permit a public body to close a meeting that otherwise would be open merely because an attorney employed or retained by the public body is a participant. The public body may consider and give instructions to an attorney concerning the handling or settlement of a claim, judicial action, mediation, arbitration, or administrative procedure. If the public body has approved or considered a settlement, other than a malpractice settlement by or on behalf of a hospital, in closed session, the terms of that settlement shall be reported to the public body and entered into its minutes as soon as possible within a reasonable time after the settlement is concluded.
- (4) To discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body, including agreement on a tentative list of economic development incentives that may be offered by the public body in negotiations. The action approving the signing of an economic development contract or commitment, or the action authorizing the payment of economic development expenditures, shall be taken in an open session.
- (5) To establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating (i) the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease; or (ii) the amount of compensation and other material terms of an employment contract or proposed employment contract.
- (6) To consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee. General personnel policy issues may not be considered in a closed session. A public body may not consider the qualifications, competence, performance, character, fitness, appointment, or removal of a member of the public body or another body and may not consider or fill a vacancy among its own membership except in an open meeting. Final action making an appointment or discharge or removal by a public body having final authority for the appointment or discharge or removal shall be taken in an open meeting.
- (7) To plan, conduct, or hear reports concerning investigations of alleged criminal misconduct.
- (8) To formulate plans by a local board of education relating to emergency response to incidents of school violence.
- (9) To discuss and take action regarding plans to protect public safety as it relates to existing or potential terrorist activity and to receive briefings

by staff members, legal counsel, or law enforcement or emergency service officials concerning actions taken or to be taken to respond to such activity."

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

In the General Assembly read three times and ratified this the 4<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 10:08 a.m. on the 12<sup>th</sup> day of June, 2003.

**H.B. 304****Session Law 2003-181**

AN ACT TO PROVIDE THAT A DEFENDANT CONVICTED OF MISDEMEANOR STALKING WHO IS SENTENCED TO A COMMUNITY PUNISHMENT SHALL BE PLACED ON SUPERVISED PROBATION IN ADDITION TO ANY OTHER PUNISHMENT IMPOSED BY THE COURT.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 14-277.3(b) reads as rewritten:

"(b) Classification. – A violation of this section is a Class A1 misdemeanor. A person convicted of a Class A1 misdemeanor under this section, who is sentenced to a community punishment, shall be placed on supervised probation in addition to any other punishment imposed by the court. A person who commits the offense of stalking when there is a court order in effect prohibiting similar behavior by that person is guilty of a Class H felony. A person who commits the offense of stalking after having been previously convicted of a stalking offense is guilty of a Class F felony."

**SECTION 2.** This act becomes effective December 1, 2003, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 4<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 10:09 a.m. on the 12<sup>th</sup> day of June, 2003.

**S.B. 708****Session Law 2003-182**

AN ACT TO ALLOW CRIMINAL BACKGROUND CHECKS ON PROSPECTIVE MEMBERS OF FIRE DEPARTMENTS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Article 4 of Chapter 114 of the General Statutes is amended by adding a new section to read:

**"§ 114-19.12. Criminal history record checks of applicants to fire departments.**

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

- (1) "Applicant" means an applicant for a paid or volunteer position with a fire department in a unit of local government.
- (2) "Criminal history" means a State or federal history of conviction of a crime, whether a misdemeanor or felony, that bears upon a covered person's fitness for holding a paid or volunteer position with a fire department. The crimes include, but are not limited to, criminal offenses as set forth in any of the following Articles of Chapter 14 of



the General Statutes: Article 5, Counterfeiting and Issuing Monetary Substitutes; Article 5A, Endangering Executive and Legislative Officers; Article 6, Homicide; Article 7A, Rape and Other Sex Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; Article 14, Burglary and Other Housebreakings; Article 15, Arson and Other Burnings; Article 16, Larceny; Article 17, Robbery; Article 18, Embezzlement; Article 19, False Pretenses and Cheats; Article 19A, Obtaining Property or Services by False or Fraudulent Use of Credit Device or Other Means; Article 19B, Financial Transaction Card Crime Act; Article 20, Frauds; Article 21, Forgery; Article 26, Offenses Against Public Morality and Decency; Article 26A, Adult Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29, Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses Against the Public Peace; Article 36A, Riots and Civil Disorders; Article 39, Protection of Minors; Article 40, Protection of the Family; Article 59, Public Intoxication; and Article 60, Computer-Related Crime. The crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related offenses such as sale to underage persons in violation of G.S. 18B-302, or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5.

(b) When requested by a designated local Homeland Security director or, when there is no designated local Homeland Security director, by a local law enforcement agency, the North Carolina Department of Justice may provide to the requesting director or agency an applicant's criminal history from the State and National Repositories of Criminal Histories. The local Homeland Security director or local law enforcement agency shall provide to the North Carolina Department of Justice the fingerprints of the applicant to be checked, any additional information required by the Department of Justice, and a form signed by the applicant to be checked consenting to the check of the criminal record and to the use of fingerprints and other identifying information required by the State or National Repositories. The fingerprints of the individual shall be forwarded to the State Bureau of Investigation for a search of the State criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The local Homeland Security director or local law enforcement agency shall keep all information pursuant to this section confidential. The Department of Justice shall charge a reasonable fee for conducting the checks of the criminal history records authorized by this section.

(c) All releases of criminal history information to the local Homeland Security director or local law enforcement agency shall be subject to, and in compliance with, rules governing the dissemination of criminal history record checks as adopted by the North Carolina Division of Criminal Information. All of the information the local Homeland Security director or local law enforcement agency receives through the checking of the criminal history is privileged information and for the exclusive use of that director or agency.

(d) If the applicant's verified criminal history record check reveals one or more convictions covered under subdivision (a)(2) of this section, then the conviction shall

constitute just cause for not selecting the applicant for the position or for dismissing the person from a current position with the local fire department. The conviction shall not automatically prohibit volunteering or employment; however, the following factors shall be considered by the local Homeland Security director or local law enforcement agency in determining whether the position shall be denied:

- (1) The level and seriousness of the crime;
- (2) The date of the crime;
- (3) The age of the person at the time of the conviction;
- (4) The circumstances surrounding the commission of the crime, if known;
- (5) The nexus between the criminal conduct of the person and the duties of the person;
- (6) The prison, jail, probation, parole, rehabilitation, and employment records of the person since the date the crime was committed; and
- (7) The subsequent commission by the person of a crime listed in subsection (a) of this section.

(e) The local fire department may deny the applicant the position or dismiss an applicant who refuses to consent to a criminal history record check or use of fingerprints or other identifying information required by the State or National Repositories of Criminal Histories. This refusal constitutes just cause for the denial of the position or the dismissal from the position.

(f) The local fire department may extend a conditional offer of the position pending the results of a criminal history record check authorized by this section."

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

In the General Assembly read three times and ratified this the 4<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 10:10 a.m. on the 12<sup>th</sup> day of June, 2003.

## H.B. 869

## Session Law 2003-183

AN ACT TO ADVANCE THE DATE FOR REPORTING MAILED ABSENTEE AND ONE-STOP VOTES BY PRECINCT FROM 2006 TO 2004 FOR THOSE COUNTIES CAPABLE OF DOING SO.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 163-132.5G reads as rewritten:

**"§ 163-132.5G. Voting data maintained by precinct.**

To the extent that it can do so without compromising the secrecy of an individual's ballot, each county board of elections shall maintain voting data by precinct so that precinct returns for each item on the ballot shall include the votes cast by residents of the precinct who voted by absentee ballot, both mail and one-stop. The county board shall not be required to report absentee voting data by precinct until 60 days after the election. The State Board of Elections shall adopt rules for the enforcement of this section with the goal that all voting data shall be reported by precinct by the 2006 election. Those rules shall provide for exemptions where the expense of compliance would place a financial hardship on a county. Those rules shall provide for compliance by 2004 for counties the State Board determines are capable of complying by that year."

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

In the General Assembly read three times and ratified this the 4<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 10:11 a.m. on the 12<sup>th</sup> day of June, 2003.

**S.B. 38**

**Session Law 2003-184**

AN ACT TO DESIGNATE THE DEPARTMENT OF TRANSPORTATION AS THE STATE AGENCY RESPONSIBLE FOR FIXED GUIDEWAY TRANSIT SAFETY, TO AMEND THE DEPARTMENT OF TRANSPORTATION LOGO SIGNS PROGRAM TO AUTHORIZE ATTRACTION LOGO SIGNS, TO AUTHORIZE THE DEPARTMENT OF TRANSPORTATION TO ADOPT TEMPORARY RULES CONCERNING LOGO SIGNS, TO AUTHORIZE THE DEPARTMENT OF TRANSPORTATION TO AUTOMATE ITS 511 TRAVELER INFORMATION PHONE SYSTEM, AND TO REVISE THE LAW CONCERNING HIGH OCCUPANCY VEHICLE (HOV) LANES.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 136-18 is amended by adding a new subdivision to read:

"(36) To oversee the safety of fixed guideway transit systems in the State not regulated by the Federal Railroad Administration, pursuant to the Intermodal Surface Transportation Efficiency Act of 1991 (49 U.S.C. § 5330). The Department shall adopt rules in conformance with 49 U.S.C. § 5330 concerning its oversight of the safety of fixed guideway transit systems."

**SECTION 2.** G.S. 136-89.56 reads as rewritten:

"§ 136-89.56. **Commercial enterprises.**

No commercial enterprises or activities shall be authorized or conducted by the Department of Transportation, or the governing body of any city or town, within or on the property acquired for or designated as a controlled-access facility, as defined in this Article, except for:

- (1) Materials displayed at welcome centers which shall be directly related to travel, accommodations, tourist-related activities, tourist-related services, and attractions. The Department of Transportation shall issue rules regulating the display of these materials. These materials may contain advertisements for real estate; and
- (2) Vending machines permitted by the Department of Transportation and placed by the Division of Services for the Blind, Department of Health and Human Services, as the State licensing agency designated pursuant to Section 2(a)(5) of the Randolph-Sheppard Act (20 USC 107a(a)(5)). The Department of Transportation shall regulate the placing of the vending machines in highway rest areas and shall regulate the articles to be dispensed. In order to permit the establishment of adequate fuel and other service facilities by private owners or their lessees for the users of a controlled-access facility, the Department of Transportation shall permit access to service or frontage roads within the publicly owned right-of-way of any controlled-access facility established or

designated as provided in this Article, at points which, in the opinion of the Department of Transportation, will best serve the public interest. The location of such fuel and other service facilities may be indicated to the users of the controlled-access facilities by appropriate signs, the size, style, and specifications of which shall be determined by the Department of Transportation.

The location of ~~fuel and other service~~ fuel, gas, food, lodging, camping, and attraction facilities may be indicated to the users of the ~~controlled-access~~ controlled-access facilities by appropriate logos placed on signs owned, controlled, and erected by the Department of Transportation. The owners, operators or lessees of ~~fuel and other service~~ fuel, gas, food, lodging, camping, and attraction facilities who wish to place a logo identifying their business or service on a sign shall furnish a logo meeting the size, style and specifications determined by the Department of Transportation and shall pay the Department for the costs of initial installation and subsequent maintenance. The fees for logo sign installation and maintenance shall be set by the Board of Transportation based on cost."

**SECTION 3.** G.S. 150B-21.1 is amended by adding a new subsection to read:

"(a11) Notwithstanding the provisions of subsection (a) of this section, the Department of Transportation may adopt temporary rules concerning logo signs pursuant to G.S. 136-89.56. After having the proposed temporary rule published in the North Carolina Register and at least 30 days prior to adopting a temporary rule pursuant to this subsection, the Department shall:

- (1) Notify persons on its mailing list maintained pursuant to G.S. 150B-21.2(d) and any other interested parties of its intent to adopt a temporary rule.
- (2) Accept oral and written comments on the proposed temporary rule.
- (3) Hold at least one public hearing on the proposed temporary rule.

When the Department adopts a temporary rule pursuant to this subsection, the Department shall submit a reference to this subsection as the Department's statement of need to the Codifier of Rules.

Notwithstanding any other provision of this Chapter, the Codifier of Rules shall publish in the North Carolina Register a proposed temporary rule received from the Department in accordance with this subsection."

**SECTION 4.** G.S. 143-162.1 reads as rewritten:

**"§ 143-162.1. First menu operator access.**

- (a) The General Assembly finds that:
  - (1) Some telephone systems operated by State government agencies require callers to proceed through several menus to finally reach an individual extension, an arrangement that can be intimidating to the caller;
  - (2) Many State telephone systems also make it difficult to reach an attendant or operator at the agency; and
  - (3) While automated telephone systems and voice mail are intended to improve the efficiency of government, the first duty of government is to serve the people, and efficiency should not impede the average citizen in attempting to contact a State agency for service or information.

(b) State agency telephone systems routing calls to multiple extensions shall be reprogrammed by September 1, 1997, to minimize the number of menus that a caller must go through to reach the desired extension, and to allow the caller to reach an attendant or operator after accessing not more than two menus from the first menu when calling during normal business hours. As used in this section, the term "menu" refers to the first point in the call at which the caller is asked to choose from two or more options, regardless of whether that choice is referred to as a menu, router, or other term within the telephone industry itself.

This act shall be implemented by State agencies with existing personnel at no additional cost to the State.

(c) All State agencies shall include the agency's telephone number or numbers in a prominent place on all agency letterhead.

(d) The provisions of subsection (b) of this section shall not apply to any '511' traveler information system operated by the Department of Transportation."

**SECTION 5.** G.S. 20-146.2 reads as rewritten:

"§ 20-146.2. **Rush hour traffic lanes authorized.**

(a) HOV Lanes. – The Department of Transportation may designate one or more travel lanes as high occupancy vehicle (HOV) lanes on streets and highways on the State Highway System and cities may designate one or more travel lanes as high occupancy vehicle (HOV) lanes on streets on the Municipal Street System. HOV lanes shall be reserved for vehicles with a specified number of passengers as determined by the Department of Transportation or the city having jurisdiction over the street or highway. When HOV lanes have been designated, and have been appropriately marked with signs or other markers, they shall be reserved for privately or publicly operated buses, and automobiles or other vehicles containing the specified number of persons. Where access restrictions are applied on HOV lanes through designated signing and pavement markings, vehicles shall only cross into or out of an HOV lane at designated openings. A motor vehicle shall not travel in a designated HOV lane if the motor vehicle has more than three axles, regardless of the number of occupants. HOV lane restrictions shall not apply to motorcycles or vehicles designed to transport 15 or more passengers, regardless of the actual number of occupants. HOV lane restrictions shall not apply to emergency vehicles. As used in this subsection, the term 'emergency vehicle' means any law enforcement, fire, police, or other government vehicle, and any public and privately owned ambulance or emergency service vehicle, when responding to an emergency.

(a1) Transitway Lanes. – The Department of Transportation may designate one or more travel lanes as a transitway on streets and highways on the State Highway System and cities may designate one or more travel lanes as a transitway on streets on the Municipal Street System. Transitways shall be reserved for public transportation vehicles as determined by the Department of Transportation or the city having jurisdiction over the street or highway. When transitways have been designated, and they have been appropriately marked with signs or other markers, they shall be reserved for privately or publicly operated transportation vehicles as determined by the Department or the city having jurisdiction.

(b) Temporary Peak Traffic Shoulder Lanes. – The Department of Transportation may modify, upgrade, and designate shoulders of controlled access facilities and partially controlled access facilities as temporary travel lanes during peak traffic periods. When these shoulders have been appropriately marked, it shall be unlawful to

use these shoulders for stopping or emergency parking. Emergency parking areas shall be designated at other appropriate areas, off these shoulders, when available.

(c) Directional Flow Peak Traffic Lanes. – The Department of Transportation may designate travel lanes for the directional flow of peak traffic on streets and highways on the State Highway System and cities may designate travel lanes for the directional flow of peak traffic on streets on the Municipal Street System. These travel lanes may be designated for time periods by the agency controlling the streets and highways."

**SECTION 6.** Section 5 of this act becomes effective December 1, 2003, and applies to violations that occur on or after that date. The remainder of this act is effective when it becomes law. Section 3 of this act expires July 1, 2005.

In the General Assembly read three times and ratified this the 4<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 10:12 a.m. on the 12<sup>th</sup> day of June, 2003.

**S.B. 90****Session Law 2003-185**

**AN ACT TO ALLOW SANITARY DISTRICT BOARDS TO SET COMPENSATION FOR ITS MEMBERS.**

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 130A-56(c) reads as rewritten:

"(c) ~~The board may, by ordinance, may fix the compensation and allowances of its members in an amount not to exceed one hundred fifty dollars (\$150.00) per month, the chairman and other members of the board by adoption of the annual budget ordinance,~~ payable from the funds of the district, but no increase may become effective earlier than the first meeting of the board following the next election of board members after adoption of the ordinance. Until adoption of an ordinance under this subsection, each member of the board may receive compensation as provided for members of State boards under G.S. 138-5, payable from funds of the district."

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

In the General Assembly read three times and ratified this the 4<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 10:13 a.m. on the 12<sup>th</sup> day of June, 2003.

**S.B. 388****Session Law 2003-186**

**AN ACT TO UPDATE THE NORTH CAROLINA GENERAL STATUTES IN RESPONSE TO RECENT MEDICAL ADVANCES IN SCREENING FOR THE EARLY DETECTION OF CERVICAL CANCER.**

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 58-50-155 reads as rewritten:

"§ **58-50-155. Standard and basic health care plan coverages.**

(a) Notwithstanding G.S. 58-50-125(c), the standard health plan developed and approved under G.S. 58-50-125 shall provide coverage for all of the following:

- (1) Mammograms and ~~pap smears~~ examinations and laboratory tests for the screening for the early detection of cervical cancer at least equal to the coverage required by G.S. 58-51-57.
- (2) Prostate-specific antigen (PSA) tests or equivalent tests for the presence of prostate cancer at least equal to the coverage required by G.S. 58-51-58.
- (3) Reconstructive breast surgery resulting from a mastectomy at least equal to the coverage required by G.S. 58-51-62.
- (4) For a qualified individual, scientifically proven bone mass measurement for the diagnosis and evaluation of osteoporosis or low bone mass at least equal to the coverage required by G.S. 58-3-174.
- (5) Prescribed contraceptive drugs or devices that prevent pregnancy and that are approved by the United States Food and Drug Administration for use as contraceptives, or outpatient contraceptive services at least equal to the coverage required by G.S. 58-3-178, if the plan covers prescription drugs or devices, or outpatient services, as applicable. The same exceptions and exclusions as are provided under G.S. 58-3-178 apply to standard plans developed and approved under G.S. 58-50-125.
- (6) Colorectal cancer examinations and laboratory tests at least equal to the coverage required by G.S. 58-3-179.

(a1), (a2) Repealed by Session Laws 1999-197, s. 2.

(b) Notwithstanding G.S. 58-50-125(c), in developing and approving the plans under G.S. 58-50-125, the Committee and Commissioner shall give due consideration to cost-effective and life-saving health care services and to cost-effective health care providers."

**SECTION 2.** G.S. 58-51-57 reads as rewritten:

"§ **58-51-57. Coverage for mammograms and ~~pap smears~~. cervical cancer screening.**

(a) Every policy or contract of accident or health insurance, and every preferred provider benefit plan under G.S. 58-50-56, that is issued, renewed, or amended on or after January 1, 1992, shall provide coverage for pap smears examinations and laboratory tests for the screening for the early detection of cervical cancer and for low-dose screening mammography. The same deductibles, coinsurance, and other limitations as apply to similar services covered under the policy, contract, or plan shall apply to coverage for pap smears examinations and laboratory tests for the screening for the early detection of cervical cancer and low-dose screening mammography.

(a1) As used in this section, "examinations and laboratory tests for the screening for the early detection of cervical cancer" means conventional PAP smear screening, liquid-based cytology, and human papilloma virus (HPV) detection methods for women with equivocal findings on cervical cytologic analysis that are subject to the approval of and have been approved by the United States Food and Drug Administration.

(b) As used in this section, "low-dose screening mammography" means a radiologic procedure for the early detection of breast cancer provided to an asymptomatic woman using equipment dedicated specifically for mammography, including a physician's interpretation of the results of the procedure.

(c) Coverage for low-dose screening mammography shall be provided as follows:

- (1) One or more mammograms a year, as recommended by a physician, for any woman who is at risk for breast cancer. For purposes of this

subdivision, a woman is at risk for breast cancer if any one or more of the following is true:

- a. The woman has a personal history of breast cancer;
  - b. The woman has a personal history of biopsy-proven benign breast disease;
  - c. The woman's mother, sister, or daughter has or has had breast cancer; or
  - d. The woman has not given birth prior to the age of 30;
- (2) One baseline mammogram for any woman 35 through 39 years of age, inclusive;
  - (3) A mammogram every other year for any woman 40 through 49 years of age, inclusive, or more frequently upon recommendation of a physician; and
  - (4) A mammogram every year for any woman 50 years of age or older.

(d) Reimbursement for a mammogram authorized under this section shall be made only if the facility in which the mammogram was performed meets mammography accreditation standards. ~~Mammography accreditation standards shall be those standards established by the North Carolina Medical Care Commission unless such standards are not in effect, in which case standards established by the United States Department of Health and Human Services for Medicare/Medicaid coverage of screening mammography shall apply until Medical Care Commission standards become effective.~~ Commission. Facilities that do not meet required mammography accreditation standards shall so inform the patient or the patient's legally responsible person prior to performing the mammogram.

(e) ~~Coverage for pap smears shall be provided for pap smears obtained once a year, or more frequently if recommended by a physician. Coverage for the screening for the early detection of cervical cancer shall be in accordance with the most recently published American Cancer Society guidelines or guidelines adopted by the North Carolina Advisory Committee on Cancer Coordination and Control. Coverage shall include the examination, the laboratory fee, and the physician's interpretation of the laboratory results. Reimbursements for laboratory fees shall be made only if the laboratory meets accreditation standards adopted by the North Carolina Medical Care Commission. When the screening pap smear accreditation standards adopted by the North Carolina Medical Care Commission become effective, reimbursement for laboratory fees shall be made only if the laboratory meets those standards. Facilities utilizing services of laboratories that do not meet accreditation standards for screening pap smears shall, prior to performing the pap smear examination, inform the patient or the patient's legally responsible person that such laboratory fees will not be covered."~~

**SECTION 3.** G.S. 58-65-92 reads as rewritten:

"§ **58-65-92. Coverage for mammograms and ~~pap smears.~~ cervical cancer screening.**

(a) Every insurance certificate or subscriber contract under any hospital service plan or medical service plan governed by this Article and Article 66 of this Chapter, and every preferred provider benefit plan under G.S. 58-50-56, that is issued, renewed, or amended on or after January 1, 1992, shall provide coverage for pap smears examinations and laboratory tests for the screening for the early detection of cervical cancer and for low-dose screening mammography. The same deductibles, coinsurance, and other limitations as apply to similar services covered under the certificate or contract shall apply to coverage for pap smears examinations and laboratory tests for the



screening for the early detection of cervical cancer and low-dose screening mammography.

(a1) As used in this section, "examinations and laboratory tests for the screening for the early detection of cervical cancer" means conventional PAP smear screening, liquid-based cytology, and human papilloma virus (HPV) detection methods for women with equivocal findings on cervical cytologic analysis that are subject to the approval of and have been approved by the United States Food and Drug Administration.

(b) As used in this section, "low-dose screening mammography" means a radiologic procedure for the early detection of breast cancer provided to an asymptomatic woman using equipment dedicated specifically for mammography, including a physician's interpretation of the results of the procedure.

(c) Coverage for low-dose screening mammography shall be provided as follows:

- (1) One or more mammograms a year, as recommended by a physician, for any woman who is at risk for breast cancer. For purposes of this subdivision, a woman is at risk for breast cancer if any one or more of the following is true:
  - a. The woman has a personal history of breast cancer;
  - b. The woman has a personal history of biopsy-proven benign breast disease;
  - c. The woman's mother, sister, or daughter has or has had breast cancer; or
  - d. The woman has not given birth prior to the age of 30;
- (2) One baseline mammogram for any woman 35 through 39 years of age, inclusive;
- (3) A mammogram every other year for any woman 40 through 49 years of age, inclusive, or more frequently upon recommendation of a physician; and
- (4) A mammogram every year for any woman 50 years of age or older.

(d) Reimbursement for a mammogram authorized under this section shall be made only if the facility in which the mammogram was performed meets mammography accreditation standards. ~~Mammography accreditation standards shall be those standards established by the North Carolina Medical Care Commission unless such standards are not in effect, in which case standards established by the United States Department of Health and Human Services for Medicare/Medicaid coverage of screening mammography shall apply until Medical Care Commission standards become effective.~~ Commission. ~~Facilities that do not meet required mammography accreditation standards shall so inform the patient or the patient's legally responsible person prior to performing the mammogram.~~

(e) ~~Coverage for pap smears shall be provided for pap smears obtained once a year, or more frequently if recommended by a physician. Coverage for the screening for the early detection of cervical cancer shall be in accordance with the most recently published American Cancer Society guidelines or guidelines adopted by the North Carolina Advisory Committee on Cancer Coordination and Control. Coverage shall include the examination, the laboratory fee, and the physician's interpretation of the laboratory results. Reimbursements for laboratory fees shall be made only if the laboratory meets accreditation standards adopted by the North Carolina Medical Care Commission. When the screening pap smear accreditation standards adopted by the North Carolina Medical Care Commission become effective, reimbursement for~~

~~laboratory fees shall be made only if the laboratory meets those standards. Facilities utilizing services of laboratories that do not meet accreditation standards for screening pap smears shall, prior to performing the pap smear examination, inform the patient or the patient's legally responsible person that such laboratory fees will not be covered."~~

**SECTION 4.** G.S. 58-67-76 reads as rewritten:

**"§ 58-67-76. Coverage for mammograms and pap screens.cervical cancer screening.**

(a) Every health care plan written by a health maintenance organization and in force, issued, renewed, or amended on or after January 1, 1992, that is subject to this Article, shall provide coverage for pap smears examinations and laboratory tests for the screening for the early detection of cervical cancer and for low-dose screening mammography. The same deductibles, coinsurance, and other limitations as apply to similar services covered under the plan shall apply to coverage for pap smears examinations and laboratory tests for the screening for the early detection of cervical cancer and low-dose screening mammography.

(a1) As used in this section, "examinations and laboratory tests for the screening for the early detection of cervical cancer" means conventional PAP smear screening, liquid-based cytology, and human papilloma virus (HPV) detection methods for women with equivocal findings on cervical cytologic analysis that are subject to the approval of and have been approved by the United States Food and Drug Administration.

(b) As used in this section, "low-dose screening mammography" means a radiologic procedure for the early detection of breast cancer provided to an asymptomatic woman using equipment dedicated specifically for mammography, including a physician's interpretation of the results of the procedure.

(c) Coverage for low-dose screening mammography shall be provided as follows:

- (1) One or more mammograms a year, as recommended by a physician, for any woman who is determined to be at risk for breast cancer. For purposes of this subdivision, a woman is at risk for breast cancer if any one or more of the following is true:
  - a. The woman has a personal history of breast cancer;
  - b. The woman has a personal history of biopsy-proven benign breast disease;
  - c. The woman's mother, sister, or daughter has or has had breast cancer; or
  - d. The woman has not given birth prior to the age of 30;
- (2) One baseline mammogram for any woman 35 through 39 years of age, inclusive;
- (3) A mammogram every other year for any woman 40 through 49 years of age, inclusive, or more frequently upon recommendation of a physician; and
- (4) A mammogram every year for any woman 50 years of age or older.

(d) Reimbursement for a mammogram authorized under this section shall be made only if the facility in which the mammogram was performed meets mammography accreditation standards. ~~Mammography accreditation standards shall be those standards established by the North Carolina Medical Care Commission unless such standards are not in effect, in which case standards established by the United States Department of Health and Human Services for Medicare/Medicaid coverage of screening mammography shall apply until Medical Care Commission standards become~~

~~effective. Commission. Facilities that do not meet required mammography accreditation standards shall so inform the patient or the patient's legally responsible person prior to performing the mammogram.~~

~~(e) Coverage for pap smears shall be provided for pap smears obtained once a year, or more frequently if recommended by a physician. Coverage for the screening for the early detection of cervical cancer shall be in accordance with the most recently published American Cancer Society guidelines or guidelines adopted by the North Carolina Advisory Committee on Cancer Coordination and Control. Coverage shall include the examination, the laboratory fee, and the physician's interpretation of the laboratory results. Reimbursements for laboratory fees shall be made only if the laboratory meets accreditation standards adopted by the North Carolina Medical Care Commission. When the screening pap smear accreditation standards adopted by the North Carolina Medical Care Commission become effective, reimbursement for laboratory fees shall be made only if the laboratory meets those standards. Facilities utilizing services of laboratories that do not meet accreditation standards for screening pap smears shall, prior to performing the pap smear examination, inform the patient or the patient's legally responsible person that such laboratory fees will not be covered."~~

**SECTION 5.(a)** G.S. 135-40.5(e) reads as rewritten:

"(e) Routine Diagnostic Examinations. – The Plan will pay one hundred percent (100%) of allowable charges for routine diagnostic examinations and tests, including breast, colon, rectal, and prostate exams, X rays, mammograms, blood and blood pressure checks, urine tests, tuberculosis tests, and general health checkups that are medically necessary for the maintenance and improvement of individual health but no more often than once every three years for covered individuals to age 40 years, once every two years for covered individuals to age 50 years, and once a year for covered individuals age 50 years and older, unless a more frequent occurrence is warranted by a medical condition when such charges are incurred in a medically supervised facility. Routine diagnostic examinations and tests covered under this subsection also include one Pap smear per year examinations and tests for the screening for the early detection of cervical cancer. The coverage shall be in accordance with the most recently published American Cancer Society guidelines or guidelines adopted by the North Carolina Advisory Committee on Cancer Coordination and Control for any covered female. For the purposes of this subsection, "examinations and laboratory tests for the screening for the early detection of cervical cancer" means conventional PAP smear screening, liquid-based cytology, and human papilloma virus (HPV) detection methods for women with equivocal findings on cervical cytologic analysis that are subject to the approval of and have been approved by the United States Food and Drug Administration. Provided, however, that charges for such examinations and tests are not covered by the Plan when they are incurred to obtain or continue employment, to secure insurance coverage, to comply with legal proceedings, to attend schools or camps, to meet travel requirements, to participate in athletic and related activities, or to comply with governmental licensing requirements. The maximum amount payable under this subsection for a covered individual is one hundred fifty dollars (\$150.00) per fiscal year."

**SECTION 5.(b)** G.S. 135-40.6(8)s. reads as rewritten:

" ...

- s. Routine Diagnostic Examinations: Allowable charges for routine diagnostic examinations and tests, including Pap smears, examinations and tests for the screening for the early detection of cervical cancer, breast, colon, rectal, and prostate

exams, X rays, mammograms, blood and blood pressure checks, urine tests, tuberculosis tests, and general health checkups that are medically necessary for the maintenance and improvement of individual health but no more often than once every three years for covered individuals to age 40 years, once every two years for covered individuals to age 50 years, and once a year for covered individuals age 50 years and ~~older~~older and, for examinations and tests for the screening for the early detection of cervical cancer, in accordance with the most recently published American Cancer Society guidelines or guidelines adopted by the North Carolina Advisory Committee on Cancer Coordination and Control, unless a more frequent occurrence is warranted by a medical condition when such charges are incurred in a medically supervised facility. Provided, however, that charges for such examinations and tests are not covered by the Plan when they are incurred to obtain or continue employment, to secure insurance coverage, to comply with legal proceedings, to attend schools or camps, to meet travel requirements, to participate in athletic and related activities or to comply with governmental licensing requirements. For the purposes of this sub-subdivision, "examinations and laboratory tests for the screening for the early detection of cervical cancer" means conventional PAP smear screening, liquid-based cytology, and human papilloma virus (HPV) detection methods for women with equivocal findings on cervical cytologic analysis that are subject to the approval of and have been approved by the United States Food and Drug Administration.

...."

**SECTION 6.** This act becomes effective January 1, 2004, and applies to all health benefit plans that are delivered, issued for delivery, or renewed on and after that date. For the purposes of this act, renewal of a health benefit plan is presumed to occur on each anniversary of the date on which coverage was first effective on the person or persons covered by the health benefit plan.

In the General Assembly read three times and ratified this the 4<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 10:14 a.m. on the 12<sup>th</sup> day of June, 2003.

**S.B. 214**

**Session Law 2003-187**

AN ACT TO ALLOW TERRITORY TO BE REMOVED FROM A RESEARCH AND PRODUCTION SERVICE DISTRICT.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Part 2 of Article 16 of Chapter 153A of the General Statutes is amended by adding a new section to read:

**"§ 153A-314.1. Removal of territory from service districts.**

(a) Standards. – A board of commissioners may by resolution remove territory from a research and production service district upon finding that:

- (1) The owners of the territory to be removed contemplate placing residential uses on some of the territory to be removed.
- (2) One hundred percent (100%) of the owners of real property in the territory to be removed have petitioned for removal.
- (3) The territory to be removed no longer requires the services, facilities, or functions financed, provided, or maintained for the district.

(b) Report. – Before the public hearing required by subsection (c) of this section, the board shall cause to be prepared a report containing:

- (1) A map of the district highlighting the territory proposed to be removed, showing the present and proposed boundaries of the district; and
- (2) A statement showing that the territory to be removed meets the standards and requirements of subsection (a) of this section.

The report shall be available for public inspection in the office of the clerk to the board for at least 10 days before the date of the public hearing.

(c) Hearing and Notice. – The board shall hold a public hearing before adopting any resolution reducing the boundaries of a service district. Notice of the hearing shall state the date, hour, and place of the hearing and its subject and shall include a statement that the report required by subsection (b) of this section is available for inspection in the office of the clerk to the board. The notice shall be published at least once not less than seven days before the hearing. In addition, the notice shall be mailed at least two weeks before the date of the hearing by any class of U.S. mail which is fully prepaid to the owners as shown by the county tax records as of the preceding January 1 (and at the address shown thereon) of all property located within the territory to be removed. The person designated by the board to mail the notice shall certify to the board that the mailing has been completed, and the certificate shall be conclusive in the absence of fraud.

(d) Municipal Annexation Allowed Under General Law. – The general law concerning annexation, Article 4A of Chapter 160A of the General Statutes, shall apply to any territory removed from the district under this section, notwithstanding any local act to the contrary.

(e) Effective Date. – The resolution reducing the boundaries of the district shall take effect at the beginning of a fiscal year commencing after its passage, as determined by the board."

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

In the General Assembly read three times and ratified this the 3<sup>rd</sup> day of June, 2003.

Became law upon approval of the Governor at 10:16 a.m. on the 12<sup>th</sup> day of June, 2003.

**S.B. 319**

**Session Law 2003-188**

AN ACT AMENDING THE CABARRUS COUNTY DEMONSTRATION WORK OVER WELFARE PROGRAM.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** S.L. 1998-106, as amended by S.L. 2001-354, reads as rewritten:

"Section 1. Notwithstanding any law to the contrary, the Department of Health and Human Services shall continue designation of Cabarrus County as a pilot county for the purpose of conducting a demonstration welfare reform program for certain Work First and Food Stamp recipients. Immediately upon the ratification of this act, the Department shall ensure that all federal waivers necessary to allow this demonstration program to continue are obtained. To the extent that this act or the program established pursuant to it conflicts with any State law, the program supersedes that law.

Sec. 2. The Cabarrus County demonstration Work Over Welfare Program for certain Work First and Food Stamp recipients shall:

- (1) Provide job opportunities to all able-bodied Work First and Food Stamp recipients who are required to participate in the Work First employment program;
- (2) Create job opportunities in the public, the private, nonprofit, and the private, for-profit sector, ~~primarily in the human services areas sectors~~ by allowing Cabarrus County to use grant diversions, consisting of the Work First benefits and the cash value of Food Stamps that would be paid to otherwise eligible recipients to match employer funds, to subsidize the employment of these recipients. ~~Human service area jobs will meet such socially necessary needs as day care work, nursing home aide work, and in home aide work;~~ recipients;
- (3) Allow wages paid to these recipients, which contain grant-diverted funds, to be exempt from income for purposes of determining eligibility for assistance;
- (4) Structure payment of wages to these recipients such that they will be considered income, in order to make recipients eligible for the federal earned income tax credit;
- (5) Create work experience opportunities in the private sector more realistically to reflect the world of work;
- (6) Require these recipients to participate in the development of an opportunity agreement outlining the responsibilities of the recipient and agency, as well as the incentives for compliance and the sanctions for noncompliance;
- (7) Require all these recipients who participate in the program to pursue and accept employment, full or part time, subsidized or unsubsidized, as a condition for continued eligibility for Work First and Food Stamp assistance;
- (8) Require job search training of all ~~participants;~~ participants who are assessed as needing it;
- (9) Require monitored job search of all participants until employment is found or until other work activities of up to 40 hours per week are in place;
- (10) Create a positive work incentive by providing wage incentives to participants who are in compliance with the program by using the job bonus as outlined in the Work First Policy Manual for ~~both Work First and Food Stamp benefits;~~ Work First benefits;
- (11) Provide for a system in which the Work First cash assistance case is terminated following the first month of noncompliance, with restoration of assistance after the client agrees to comply with requirements and files a new application. To ensure that children in

- terminated households are not harmed, provide social worker monitoring and the use of direct vendor payments or assistance from other community resources for rent, utilities, or other basic needs of children as necessary, during the period in which assistance for the household is terminated. This period of social worker monitoring shall ~~coincide with the period of time that the household would have been, as a Work First case, under a three-month pay-for-performance sanction system and shall not exceed three months from the date of termination.~~ termination, unless, in the judgment of the social worker, there is reason to monitor for a longer period of time;
- (12) Provide for all individuals to be evaluated for ongoing Medicaid and children to be evaluated for Health Choice eligibility any time Work First terminates. This act shall not alter any individual's eligibility for Medicaid or Health Choice as set out in State and Federal law or ~~regulation.~~ regulation;
- (13) Require that a recipient who voluntarily terminates employment without good cause be ineligible for Work First until the individual returns to work, provided work opportunities are available. Provide employment services for 30 days to assist the individual in obtaining employment;
- (14) Require applicants for Work First to meet with child support staff within 10 days of application. Failure or refusal to pursue child support without good cause is grounds for denial of benefits;
- (15) Provide that an applicant may be eligible for a one-time Work First benefit diversion payment in an amount not exceeding one thousand two hundred dollars (\$1,200). Applicants receiving the benefit diversion payment shall not be eligible for ongoing Work First benefits for a period of three months from the date of receipt of the benefit diversion payment. Individuals receiving a diversion payment must attend budgetary counseling and may be required to have a protective payee for the benefit diversion payment;
- (16) Provide that the period of exemption from participation in employment services for a parent of a newborn child is three months. If a recipient returns to work within six weeks of childbirth, the recipient may reclaim the remainder of the three-month exemption if the recipient chooses not to continue working during the initial six-week period;
- (17) In ongoing Work First cases, require family reassessment of service needs when the family circumstance changes due to an able-bodied, financially responsible adult moving into the home. Family reassessment may result in benefit diversion, change in services, or termination from Work First program participation;
- (18) Not sanction individuals who demonstrate that they cannot meet program requirements because necessary child care is not ~~available.~~ available;
- (19) Assist children in Work First child-only cases, where the children are living with relatives other than the biological parents, in securing permanent stable homes through adoption by allowing federal funds for Work First cash assistance to be transferred from the TANF Block Grant to the Social Services Block Grant to be used to pay for home

studies, attorney fees, and other adoptions expenses, as well as an ongoing cash payment for the adoptive family, similar to cash payments received through Adoption Assistance.

Sec. 3. This act shall be funded by Cabarrus County using available grant diversions and administrative transfers, together with federal and State administrative funding allocated to Cabarrus County for the public assistance programs.

Sec. 4. The Department of Health and Human Services shall evaluate the Cabarrus County Demonstration Project and report to the General Assembly and to the Joint Legislative Public Assistance Commission on or before September 1, 2002.

Sec. 5. This act becomes effective July 1, ~~1995 and shall expire on September 30, 2003-1995.~~"

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

In the General Assembly read three times and ratified this the 12<sup>th</sup> day of June, 2003.

Became law on the date it was ratified.

## H.B. 655

## Session Law 2003-189

AN ACT TO ESTABLISH A NO-WAKE ZONE ON PEMBROKE CREEK IN CHOWAN COUNTY AND A GATES COUNTY TAX CERTIFICATION REQUIREMENT.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** It is unlawful to operate a vessel at greater than no-wake speed on the waters of Pembroke Creek, described as follows: Beginning at a point being the Northeast corner of the lot of Thomas J. Jackson Jr. as described in Deed Book 6, page 261, of the Chowan County Registry; thence, from said beginning point to a point running in a southwesterly direction along the shoreline approximately 550 feet, said point being the Northwest corner of the lot belonging to Walter L. Noneman as described in Deed Book 23 and page 239, of the Chowan County Registry. Thence in a northeasterly direction across the main run of Pembroke Creek approximately 200 feet to the nearest point of the shoreline of Dillard's Island; thence in an easterly direction along the shoreline of Dillard's Island to a point being the nearest point on the shoreline in a northwesterly direction across the main run of Pembroke Creek from the point of beginning.

No-wake speed is idle speed or a slow speed creating no appreciable wake.

**SECTION 2.** With regard to marking the no-wake speed zone established in Section 1 of this act, Chowan County or its designee may place and maintain markers in accordance with the Uniform Waterway Marking System and any supplementary standards for that system adopted by the Wildlife Resources Commission. All markers of the no-wake speed zone shall be buoys or floating signs placed in the water or signs placed on pilings and shall be sufficient in number and size so as to give adequate warning of the no-wake speed zone to vessels approaching from various directions.

**SECTION 3.** Section 1 of this act is enforceable under G.S. 75A-17 as if it were a provision of Chapter 75A of the General Statutes.

**SECTION 4.** Violation of Section 1 of this act is a Class 3 misdemeanor.

**SECTION 5.** Sections 1 through 4 of this act apply only to Chowan County.



**SECTION 6.** G.S. 161-31, as amended by S.L. 2003-72, reads as rewritten:

**"§ 161-31. Tax Certification.**

(a) Tax Certification. – The board of commissioners of a county may, by resolution, require the register of deeds not to accept any deed transferring real property for registration unless the county tax collector has certified that no delinquent ad valorem county taxes, ad valorem municipal taxes, or other taxes with which the collector is charged are a lien on the property described in the deed. The county commissioners may describe the form the certification must take in its resolution.

(a1) Exception to Tax Certification. – If a board of county commissioners adopts a resolution pursuant to subsection (a) of this section, notwithstanding the resolution, the register of deeds shall accept without certification a deed submitted for registration under the supervision of a closing attorney and containing this statement on the deed: 'This instrument prepared by: \_\_\_\_\_, a licensed North Carolina attorney. Delinquent taxes, if any, to be paid by the closing attorney to the county tax collector upon disbursement of closing proceeds.'

(b) Applicability. – This section applies only to Alleghany, Anson, Beaufort, Bertie, Cabarrus, Camden, Carteret, Cherokee, Chowan, Clay, Cleveland, Currituck, Davidson, Durham, Forsyth, Gaston, Gates, Graham, Granville, Harnett, Haywood, Henderson, Hertford, Hyde, Iredell, Jackson, Lee, Macon, Madison, Martin, Montgomery, Northampton, Pasquotank, Perquimans, Person, Pitt, Polk, Rockingham, Rowan, Rutherford, Stanly, Swain, Transylvania, Vance, Warren, Washington, and Yadkin Counties."

**SECTION 7.** This act is effective when it becomes law, except that Section 1 of this act is enforceable after markers complying with Section 2 of this act are placed in the water.

In the General Assembly read three times and ratified this the 12<sup>th</sup> day of June, 2003.

Became law on the date it was ratified.

**H.B. 696**

**Session Law 2003-190**

AN ACT TO AMEND THE CHARTER OF THE TOWN OF WADESBORO TO EXTEND THE MAYOR'S TERM OF OFFICE FROM TWO TO FOUR YEARS AND TO AMEND THE CHARTER OF THE TOWN OF ANSONVILLE TO EXTEND THE MAYOR'S AND COUNCIL MEMBERS' TERMS OF OFFICE FROM TWO TO FOUR YEARS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Section 3.4(a) of the Charter of the Town of Wadesboro, being Chapter 297 of the 1975 Session Laws, as amended by Chapter 885 of the 1985 Session Laws, reads as rewritten:

"(a) The members of the town council and the mayor shall serve for terms of four years, ~~and the mayor shall serve for a term of two years~~, beginning the day and hour of the organizational meeting following their election, as established by ordinance in accordance with this charter; provided, they shall serve until their successors are elected and qualify."

**SECTION 2.** Section 4.1 of the Charter of the Town of Wadesboro, being Chapter 297 of the 1975 Session Laws, as amended by Chapter 885 of the 1985 Session Laws, reads as rewritten:

"**Sec. 4.1. Regular municipal elections.** Regular municipal elections shall be held biennially in odd-numbered years on the day set by general law for municipal elections. In the ~~1975-2003~~ regular municipal elections and ~~biennially~~ quadrennially thereafter there shall be elected a mayor for a term of ~~two~~ four years. In the 1975 regular municipal election and quadrennially thereafter, two council members shall be elected to serve terms of four years each. In the 1977 regular municipal election and quadrennially thereafter, three council members shall be elected to serve terms of four years each. Newly elected council members shall fill the seats of those council members whose terms are then expiring."

**SECTION 3.** That portion of the order of the Municipal Board of Control for the State of North Carolina, dated May 9, 1928, In Re: Incorporation of the Town of Ansonville, Anson County, North Carolina, stating the manner of electing the Town Council of Ansonville is rewritten to read:

"The governing body of the Town shall be the Mayor and the Town Council, which shall be composed of five members. The governing body shall be elected by all the qualified voters of the entire Town. In 2003, and quadrennially thereafter, the Mayor and the Town Council shall be elected for four-year terms or until their successors are elected and qualified."

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

In the General Assembly read three times and ratified this the 12<sup>th</sup> day of June, 2003.

Became law on the date it was ratified.

## H.B. 478

## Session Law 2003-191

AN ACT TO AMEND THE LAW REGARDING THE NORTH CAROLINA CHILD ALERT NOTIFICATION (NC CAN) SYSTEM AND TO RENAME THAT SYSTEM THE AMBER ALERT SYSTEM.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 143B-499.1 reads as rewritten:

"§ **143B-499.1. Dissemination of missing persons data by law-enforcement agencies.**

A law-enforcement agency, upon receipt of a missing person report by a parent, spouse, guardian, or legal custodian, shall immediately make arrangements for the entry of data about the missing person or missing child into the national missing persons file in accordance with criteria set forth by the FBI/NCIC, immediately inform all of its on-duty law-enforcement officers of the missing person report, initiate a statewide broadcast to all appropriate law-enforcement agencies to be on the lookout for the individual, and transmit a copy of the report to the Center.

If the report involves a missing child and the report meets the criteria established in G.S. 143B-499.7(b), as soon as practicable after receipt of the report, the law enforcement agency shall notify the Center and the National Center for Missing and Exploited Children of the relevant data about the missing child."

**SECTION 2.** G.S. 143B-499.2 reads as rewritten:**"§ 143B-499.2. Responsibilities of Center.**

The Center shall:

- (1) Assist local law-enforcement agencies with entering data about missing persons or missing children into the national missing persons file, ensure that proper entry criteria have been met as set forth by the FBI/NCIC, and confirm entry of the data about the missing persons or missing children;
- (2) Gather and distribute information and data on missing children and missing persons;
- (3) Encourage research and study of missing children and missing persons, including the prevention of child abduction and the prevention of the exploitation of missing children;
- (4) Serve as a statewide resource center to assist local communities in programs and initiatives to prevent child abduction and the exploitation of missing children;
- (5) Continue increasing public awareness of the reasons why children are missing and vulnerability of missing children;
- (6) Achieve maximum cooperation with other agencies of the State, with agencies of other states and the federal government and with the National Center for Missing and Exploited Children in rendering assistance to missing children and missing persons and their parents, guardians, spouses, or legal custodians; and cooperate with interstate and federal efforts to identify deceased individuals;
- (6a) Develop and maintain the ~~North Carolina Child Alert Notification System (NC-CAN)~~ AMBER Alert System as created by G.S. 143B-499.7;
- (7) Forward the appropriate information to the Police Information Network to assist it in maintaining and publishing a bulletin of currently missing children and missing persons;
- (8) Maintain a directory of existing public and private agencies, groups, and individuals that provide effective assistance to families in the areas of prevention of child abduction, location of missing children and missing persons, and follow-up services to the child or person and family, as determined by the Secretary of Crime Control and Public Safety;
- (9) Annually compile and publish reports on the actual number of children and persons missing each year, listing the categories and causes, when known, for the disappearances;
- (10) Provide follow-up referrals for services to missing children or persons and their families;
- (11) Maintain a toll-free 1-800 telephone service that will be in service at all times; and
- (12) Perform such other activities that the Secretary of Crime Control and Public Safety considers necessary to carry out the intent of its mandate."

**SECTION 3.** G.S. 143B-499.7 reads as rewritten:**"§ 143B-499.7. North Carolina ~~Child Alert Notification~~ AMBER Alert System established.**

(a) There is established within the North Carolina Center for Missing Persons the ~~North Carolina Child Alert Notification System (NC-CAN)~~. AMBER Alert System. The purpose of ~~NC-CAN-AMBER Alert~~ is to provide a statewide system for the rapid dissemination of information regarding abducted children.

(b) The ~~NC-CAN-AMBER Alert~~ System shall make every effort to disseminate information on missing children as quickly as possible when the following criteria are met:

- (1) The child is ~~12~~ 17 years of age or younger;
- ~~(2) The child is believed to have been abducted;~~
- ~~(3) The child is believed to be in danger of injury or death;~~
- (4) The abduction is not known or suspected to be by a parent of the ~~child;~~ child, unless the child's life is suspected to be in danger of injury or death;
- (4a) The child is believed:
  - a. To have been abducted, or
  - b. To be in danger of injury or death;
- (5) The child is not a runaway or voluntarily missing; and
- (6) The abduction has been reported to and investigated by a law enforcement agency.

~~The NC-CAN System may disseminate information on missing children who are ages 13 to 17 on a case by case basis, if all other criteria in subdivisions (2) through (6) of this subsection have been met, if the Center believes the dissemination of the information to be beneficial in the possible recovery of the missing child.~~

If the abduction of the child is known or suspected to be by a parent of the child, the Center, in its discretion, may disseminate information through the ~~NC-CAN-AMBER Alert~~ System if the child is believed to be in danger of injury or death.

(c) The Center shall adopt guidelines and develop procedures for the statewide implementation of the ~~NC-CAN-AMBER Alert~~ System and shall provide education and training to encourage radio and television broadcasters to participate in the System. The Center shall work with the Department of Justice in developing training material regarding the ~~NC-CAN-AMBER Alert~~ System for law enforcement, broadcasters, and community interest groups.

(d) The Center shall consult with the Department of Transportation and develop a procedure for the use of overhead permanent changeable message signs to provide information on the abduction of a child meeting the criteria established in subsection (b) of this section, when information is available that would enable motorists to assist law enforcement in the recovery of the missing child. The Center and the Department of Transportation shall develop guidelines for the content, length, and frequency of any message to be placed on an overhead permanent changeable message sign.

(e) The Center shall consult with the Division of Emergency Management, in the Department of Crime Control and Public Safety, to develop a procedure for the use of the Emergency Alert System to provide information on the abduction of a child meeting the criteria established in subsection (b) of this section.

(f) The Department of Crime Control and Public Safety, on behalf of the Center, may accept grants, contributions, devises, bequests, and gifts, which shall be kept in a

separate fund, which shall be nonreverting, and shall be used to fund the operations of the Center and the ~~NC-CAN-AMBER~~ Alert System."

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

In the General Assembly read three times and ratified this the 5<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 2:27 p.m. on the 12<sup>th</sup> day of June, 2003.

**S.B. 877**

**Session Law 2003-192**

**AN ACT TO ENHANCE PENALTIES FOR VIOLATIONS OF THE CHILD CARE FACILITIES ACT.**

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 110-103 reads as rewritten:

"§ **110-103. Criminal penalty.**

(a) Any person who violates the provisions of G.S. 110-98 ~~through G.S. 110-99 or G.S. 110-102~~ shall be guilty of a Class 1 misdemeanor, ~~except that any person operating a family child care home as defined in G.S. 110-86(3) who violates the provisions of G.S. 110-98 through G.S. 110-99 or G.S. 110-102 shall be guilty of a Class 3 misdemeanor.~~ misdemeanor. Violations of G.S. 110-98(2), 110-99(b), 110-99(c), and 110-102 are exempted from the provisions of this subsection.

(b) It shall be a Class I felony for any person who operates a child care facility to:

(1) Willfully violate the provisions of G.S. 110-99(a), or

(2) Willfully violate the provisions of this Article while providing child care for three or more children, for more than four hours per day on two consecutive days.

(c) Any person who violates the provisions of this Article and, as a result of the violation, causes serious injury to a child attending the child care facility, shall be guilty of a Class H felony.

(d) Any person who violates subsection (a) of this section, and has a prior conviction for violating subsection (a), shall be guilty of a Class H felony."

**SECTION 2.** G.S. 110-99 reads as rewritten:

"§ **110-99. ~~Display Possession and display of license.~~**

(a) It shall be unlawful for a child care facility to operate without a current license authorized for issuance under G.S. 110-88.

~~(a)~~(b) Each child care facility shall display its current license in a prominent place at all times so that the public may be on notice that the facility is licensed and may observe any rating which may appear on the license. Any license issued to a child care facility under this Article shall remain the property of the State and may be removed by persons employed or designated by the Secretary in the event that the license is revoked or suspended, or in the event that the rating is changed.

~~(b)~~(c) A person who provides only drop-in or short-term child care as described in G.S. 110-86(2)(d), excluding drop-in or short-term child care provided in churches, shall notify the Department that the person is providing only drop-in or short-term child care. Any person providing only drop-in or short-term child care as described in G.S. 110-86(2)(d), excluding drop-in or short-term child care provided in churches, shall display in a prominent place at all times a notice that the child care arrangement is not

required to be licensed and regulated by the Department and is not licensed and regulated by the Department."

**SECTION 3.** This act becomes effective December 1, 2003, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 4<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 2:36 p.m. on the 12<sup>th</sup> day of June, 2003.

**H.B. 253****Session Law 2003-193**

**AN ACT TO MAKE TECHNICAL CHANGES TO THE CONTINUING CARE RETIREMENT (CCR) LAWS.**

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 58-64-5(e) is repealed.

**SECTION 2.** G.S. 58-64-5(g) reads as rewritten:

"(g) The Commissioner may require a facility-provider to: (i) provide the report of an actuary that estimates the capacity of the provider to meet its contractual obligation to the resident, or (ii) give consideration to expected rates of mortality and morbidity, expected refunds, and expected capital expenditures in accordance with standards promulgated by the American Academy of Actuaries, within the five-year forecast statements, as required by G.S. 58-64-20(a)(12)."

**SECTION 3.** G.S. 58-64-20(a)(7)d. reads as rewritten:

"d. The conditions under which a living unit occupied by a resident may be made available by the facility-provider to a different or new resident other than on the death of the prior resident; and".

**SECTION 4.** G.S. 58-64-20(a)(11) reads as rewritten:

"(11) In the event the facility-provider has had an actuarial report prepared within the prior two years, the summary of a report of an actuary that estimates the capacity of the provider to meet its contractual obligations to the residents."

**SECTION 5.** G.S. 58-64-20(a)(12) reads as rewritten:

"(12) ~~Forecast~~ Forecasted financial statements for the facility-provider of the next five years, including a balance sheet, a statement of operations, a statement of cash flows, and a statement detailing all significant assumptions, compiled by an independent certified public accountant. Reporting routine, categories, and structure may be further defined by regulations or forms adopted by the Commissioner."

**SECTION 6.** G.S. 58-64-20(a)(14)b. reads as rewritten:

"b. Narrative disclosure detailing all significant assumptions used in the preparation of the ~~forecast~~ forecasted financial statements, including:

1. Details of any long-term financing for the purchase or construction of the facility including interest rate, repayment terms, loan covenants, and assets pledged;
2. Details of any other funding sources that the provider anticipates using to fund any start-up losses or to provide reserve funds to assure full performance of the

- obligations of the provider under contracts for the provision of continuing care;
3. The total life occupancy fees to be received from or on behalf of, residents at, or prior to, commencement of operations along with anticipated accounting methods used in the recognition of revenues from and expected refunds of life occupancy fees;
  4. A description of any equity capital to be received by the facility;
  5. The cost of the acquisition of the facility or, if the facility is to be constructed, the estimated cost of the acquisition of the land and construction cost of the facility;
  6. Related costs, such as financing any development costs that the provider expects to incur or become obligated for prior to the commencement of operations;
  7. The marketing and resident acquisition costs to be incurred prior to commencement of operations; and
  8. A description of the assumptions used for calculating the estimated occupancy rate of the facility and the effect on the income of the facility of government subsidies for health care services."

**SECTION 7.** G.S. 58-64-30(a) reads as rewritten:

"(a) Within 150 days following the end of each fiscal year, the provider shall file with the Commissioner a revised disclosure statement setting forth current information required pursuant to G.S. 58-64-20. The provider shall also make this revised disclosure statement available to all the residents of the facility. This revised disclosure statement shall include a narrative describing any material differences between (i) the ~~forecast~~ forecasted statements of revenues and expenses and cash flows or other ~~forecast~~ forecasted financial data filed pursuant to G.S. 58-64-20 as a part of the disclosure statement recorded most immediately subsequent to the start of the provider's most recently completed fiscal year and (ii) the actual results of operations during that fiscal year, together with the revised ~~forecast~~ forecasted statements of revenues and expenses and cash flows or other ~~forecast~~ forecasted financial data being filed as a part of the revised disclosure statement. A provider may also revise its disclosure statement and have the revised disclosure statement recorded at any other time if, in the opinion of the provider, revision is necessary to prevent an otherwise current disclosure statement from containing a material misstatement of fact or omitting a material fact required to be stated therein. Only the most recently recorded disclosure statement, with respect to a facility, and in any event, only a disclosure statement dated within one year plus 150 days prior to the date of delivery, shall be considered current for purposes of this Article or delivered pursuant to G.S. 58-64-20."

**SECTION 8.** G.S. 58-64-33 reads as rewritten:

"§ 58-64-33. **Operating reserves.**

(a) ~~All continuing care facilities~~ A provider shall maintain after ~~opening~~ the opening of a facility: an operating ~~reserves~~ reserve equal to fifty percent (50%) of the total operating costs of the facility ~~projected~~ forecasted for the 12-month period following the period covered by the most recent ~~annual~~ disclosure statement filed with the Department. The forecast statements as required by G.S. 58-64-20(a)(12) shall serve

as the basis for computing the operating reserve. In addition to total operating expenses, total operating costs will include debt service, consisting of principal and interest payments along with taxes and insurance on any mortgage loan or other long-term financing, but will exclude depreciation, amortized expenses, and extraordinary items as approved by the Commissioner. If the debt service portion is accounted for by way of another reserve account, the debt service portion may be excluded. ~~Facilities that maintain~~ If a facility maintains an occupancy level in excess of ninety percent ~~(90%)~~ (90%), a provider shall only be required to maintain a twenty-five percent (25%) operating reserve upon approval of the Commissioner, unless otherwise instructed by the Commissioner. The operating reserves ~~may~~ reserve must be funded by cash, by ~~invested cash, cash equivalents,~~ or by investment grade securities, including bonds, stocks, U.S. Treasury obligations, or obligations of U.S. government agencies.

(b) A provider that has begun construction or has permanent financing in place or is in operation on the effective date of this section has up to five years to meet the operating reserve requirements.

(c) ~~Operating reserves~~ An operating reserve shall only be released upon the submittal of a detailed request from the provider or facility and must be approved by the Commissioner. Such requests must be submitted in writing for the Commissioner to review at least 10 business days prior to the date of withdrawal."

**SECTION 9.** G.S. 58-64-40 reads as rewritten:

"§ 58-64-40. **Right to organization.**

(a) A resident living in a facility ~~registered under this Article~~ operated by a provider licensed under this Article has the right of self-organization, the right to be represented by an individual of ~~his~~ the resident's own choosing, and the right to engage in concerted activities to keep informed on the operation of the facility in which ~~he is a resident~~ the resident resides or for other mutual aid or protection.

(b) The board of directors or other governing body of a ~~facility~~ provider or its designated representative shall hold semiannual meetings with the residents of ~~the facility~~ each facility operated by the provider for free discussions of subjects including, but not limited to, income, expenditures, and financial trends and problems as they apply to the facility and discussions of proposed changes in policies, programs, and services. Upon request of the most representative residents' organization, a member of the governing body of the provider, such as a board member, a general partner, or a principal owner shall attend such meetings. Residents shall be entitled to at least seven days advance notice of each meeting. An agenda and any materials that will be distributed by the governing body at the meetings shall remain available upon request to residents."

**SECTION 10.** G.S. 58-64-45 reads as rewritten:

"§ 58-64-45. **Supervision, rehabilitation, and liquidation.**

(a) If, at any time, the Commissioner determines, after notice and an opportunity for the provider to be heard, that:

- (1) A portion of an entrance fee escrow account required to be maintained under this Article has been or is proposed to be released in violation of this Article;
- (2) A provider has been or will be unable, in such a manner as may endanger the ability of the provider, to fully perform its obligations pursuant to contracts for continuing care, to meet the projected forecasted financial data previously filed by the provider;



- (3) A provider has failed to maintain the escrow account required under this Article; or
- (4) A ~~facility-provider~~ is bankrupt or insolvent, or in imminent danger of becoming bankrupt or insolvent;

the Commissioner may commence a supervision proceeding pursuant to Article 30 of this Chapter or may apply to the Superior Court of Wake County or to the federal bankruptcy court that may have previously taken jurisdiction over the provider or facility for an order directing the Commissioner or authorizing the Commissioner to rehabilitate or to liquidate a facility in accordance with Article 30 of this Chapter.

(b) The definition of "insolvency" or "insolvent" in G.S. 58-30-10(13) shall not apply to ~~facilities-providers~~ under this Article. Rules adopted by the Commissioner shall define and describe "insolvency" or "hazardous financial condition" for ~~facilities providers~~ under this Article. G.S. 58-30-12 shall not apply to facilities under this Article.

(c) If, at any time, the Court finds, upon petition of the Commissioner or provider, or on its own motion, that the objectives of an order to rehabilitate a ~~facility provider~~ have been accomplished and that the facility or facilities owned by, or operated by, the provider can be returned to the provider's management without further jeopardy to the residents of the ~~facility, facility or facilities~~, the Court may, upon a full report and accounting of the conduct of the ~~facility's-provider's~~ affairs during the rehabilitation and of the ~~facility's-provider's~~ current financial condition, terminate the rehabilitation and, by order, return the facility or facilities owned by, or operated by, the provider, along with the ~~and its~~ assets and affairs of the provider, to the provider's management.

(d), (e) Repealed by Session Laws 1995 (Regular Session, 1996), c. 582, s. 3.

(f) In applying for an order to rehabilitate or liquidate a ~~facility-provider~~, the Commissioner shall give due consideration in the application to the manner in which the welfare of persons who have previously contracted with the provider for continuing care may be best served.

(g) An order for rehabilitation shall be refused or vacated if the provider posts a bond, by a recognized surety authorized to do business in this State and executed in favor of the Commissioner on behalf of persons who may be found entitled to a refund of entrance fees from the provider or other damages in the event the provider is unable to fulfill its contracts to provide continuing care at the ~~facility, facility or facilities~~, in an amount determined by the Court to be equal to the reserve funding that would otherwise need to be available to fulfill such obligations."

**SECTION 11.** G.S. 58-64-46 reads as rewritten:

"§ **58-64-46. Receiverships; exception for facility beds.**

When the Commissioner has been appointed as a receiver under Article 30 of this Chapter for a provider or facility subject to this Article, the Department of Health and Human Services may, notwithstanding any other provision of law, accept and approve the addition of adult care home beds ~~for that facility~~ for a facility owned by, or operated by, the provider, if it appears to the court, upon petition of the Commissioner or the provider, or on the court's own motion, that (i) the best interests of the ~~facility-provider~~ or (ii) the welfare of persons who have previously contracted with the provider or may contract with the ~~facility-provider~~, may be best served by the addition of adult care home beds."

**SECTION 12.** G.S. 58-64-55 reads as rewritten:

**"§ 58-64-55. Examinations; financial statements.**

The Commissioner or the Commissioner's designee may, in the Commissioner's discretion, visit a ~~facility provider~~ offering continuing care in this State to examine its books and records. Expenses incurred by the Commissioner in conducting examinations under this section shall be paid by the ~~facility provider~~ examined. The provisions of G.S. 58-2-131, 58-2-132, 58-2-133, 58-2-134, 58-2-155, 58-2-165, 58-2-180, 58-2-185, 58-2-190, and 58-6-5 apply to this Article and are hereby incorporated by reference."

**SECTION 13.** G.S. 58-64-60 reads as rewritten:

**"§ 58-64-60. ~~Agreements~~ Contracts as preferred claims on liquidation.**

In the event of liquidation of a provider, all contracts for continuing care ~~agreements~~ executed by the provider shall be deemed preferred claims against all assets owned by the provider; provided, however, such claims shall be subordinate to the liquidator's cost of administration or any secured claim."

**SECTION 14.** G.S. 58-64-65 reads as rewritten:

**"§ 58-64-65. Rule-making authority; reasonable time to comply with rules.**

(a) The Commissioner is authorized to promulgate rules to carry out and enforce the provisions of this Article.

(b) Any provider who is offering continuing care may be given a reasonable time, not to exceed one year from the date of publication of any applicable rules promulgated pursuant to this Article, within which to comply with the ~~rules and to obtain a license rules.~~"

**SECTION 15.** G.S. 58-64-70 reads as rewritten:

**"§ 58-64-70. Civil liability.**

(a) A provider who enters into a contract for continuing care at a facility without having first delivered a disclosure statement meeting the requirements of G.S. 58-64-20 to the person contracting for this continuing care, or enters into a contract for continuing care at a facility with a person who has relied on a disclosure statement that omits to state a material fact required to be stated therein or necessary in order to make the statements made therein, in light of the circumstances under which they are made, not misleading, shall be liable to the person contracting for this continuing care for actual damages and repayment of all fees paid to the ~~provider, facility, or person provider~~ violating this Article, less the reasonable value of care and lodging provided to the resident by or on whose behalf the contract for continuing care was entered into prior to discovery of the violation, misstatement, or omission or the time the violation, misstatement, or omission should reasonably have been discovered, together with interest thereon at the legal rate for judgments, and court costs and reasonable attorney fees.

(b) Liability under this section exists regardless of whether the provider ~~or person liable~~ had actual knowledge of the misstatement or omission.

(c) A person may not file or maintain an action under this section if the person, before filing the action, received a written offer of a refund of all amounts paid the provider, ~~facility, or person violating this Article~~ together with interest at the rate established monthly by the Commissioner of Banks pursuant to G.S. 24-1.1(c), less the current contractual value of care and lodging provided prior to receipt of the offer, and if the offer recited the provisions of this section and the recipient of the offer failed to accept it within 30 days of actual receipt.

(d) An action may not be maintained to enforce a liability created under this Article unless brought before the expiration of three years after the execution of the contract for continuing care that gave rise to the violation."

**SECTION 16.** If any section or provision of this act is declared unconstitutional, preempted, or otherwise invalid by the courts, it does not affect the validity of the act as a whole or any part other than the part so declared to be unconstitutional, preempted, or otherwise invalid.

**SECTION 17.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 5<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 3:00 p.m. on the 12<sup>th</sup> day of June, 2003.

## H.B. 825

## Session Law 2003-194

AN ACT TO REQUIRE ANY PRIVATE OR PUBLIC INSTITUTION THAT OFFERS A POSTSECONDARY DEGREE TO PROVIDE MENINGOCOCCAL DISEASE IMMUNIZATION INFORMATION TO STUDENTS IF THE INSTITUTION HAS A RESIDENTIAL CAMPUS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Chapter 116 of the General Statutes is amended by adding a new Article to read:

"Article 32.

"Health Information.

**"§ 116-260. Information on meningococcal disease immunization.**

(a) Each public or private educational institution that offers a postsecondary degree as defined in G.S. 116-15 and that has a residential campus shall provide vaccination information on meningococcal disease to each student. The vaccination information shall be contained on student health forms provided to each student by the educational institution and shall include space for the student to indicate whether or not the student has received the vaccination against meningococcal disease. The vaccination information about meningococcal disease shall include any recommendations issued by the national Centers for Disease Control and Prevention regarding the disease.

(b) The vaccination information obtained under this section that is in the possession of the educational institution is confidential and shall not be a public record under G.S. 132-1.

(c) This section shall not be construed to require the educational institution to provide the meningococcal vaccination to students.

(d) This section shall not apply if the national Centers for Disease Control and Prevention no longer recommends the meningococcal vaccine.

(e) This section does not create a private right of action."

**SECTION 2.** This act is effective when it becomes law and applies to the 2003-2004 academic year and each subsequent year.

In the General Assembly read three times and ratified this the 3<sup>rd</sup> day of June, 2003.

Became law upon approval of the Governor at 3:05 p.m. on the 12<sup>th</sup> day of June, 2003.

## H.B. 116

## Session Law 2003-195

## AN ACT TO AMEND THE LAW GOVERNING NOTICE OF TERMINATION OF FARM MACHINERY AGREEMENTS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 66-182 reads as rewritten:

"§ 66-182. **Notice of termination of agreements.**

(a) ~~No supplier, directly or through an officer, agent, or employee, may terminate, cancel, fail to renew, or substantially change the competitive circumstances of an agreement without good cause. Notwithstanding any agreement to the contrary, a supplier who terminates or otherwise fails to renew or substantially changes the competitive circumstances of an agreement with a dealer without good cause shall notify the dealer of the termination not less than 90 days prior to the effective date of the termination and shall provide a 60-day right-to-cure the deficiency. If the deficiency is cured within the allotted time, the notice is void. In the case where cancellation is enacted due to market penetration, a reasonable period of time shall have existed where the supplier has worked with the dealer to gain the desired market share. If there is any reason constituting good cause for action, the notice shall state that reason.~~

(a1) Notwithstanding any agreement to the contrary, a supplier who terminates or otherwise fails to renew or substantially changes the competitive circumstances of an agreement with a dealer for good cause is not required to notify the dealer of the termination or to provide a right-to-cure the deficiency.

(b) Notwithstanding any agreement to the contrary, a dealer who terminates an agreement with a supplier shall notify the supplier of the termination not less than 90 days prior to the effective date of the termination.

~~(b1) A supplier shall provide a dealer with at least 90 days' written notice of termination of the agreement and a 60-day right to cure the deficiency. If the deficiency is cured within the allotted time, the notice is void. In the case where cancellation of an agreement is based upon the dealer's failure to capture the share of the market required in the agreement, a minimum 12-month period of time shall have existed where the supplier has worked with the dealer to gain the desired market share. The notice shall state all reasons constituting good cause.~~

(c) Notification under this section shall be in writing and shall be by certified mail or personally delivered to the recipient. It shall contain all of the following:

- (1) A statement of intention to terminate the dealership.
- (2) A statement of the reasons for the termination.
- (3) The date on which the termination takes effect."

**SECTION 2.** This act becomes effective October 1, 2003.

In the General Assembly read three times and ratified this the 5<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 3:06 p.m. on the 12<sup>th</sup> day of June, 2003.

## H.B. 1063

## Session Law 2003-196

## AN ACT TO REQUIRE OPERATORS OF CHILD CARE FACILITIES TO PROVIDE TO PARENTS THE DIVISION OF CHILD DEVELOPMENT'S SUMMARY OF THE LAWS RELATING TO CHILD CARE FACILITIES, TO REQUIRE THE

DIVISION OF CHILD DEVELOPMENT TO INCLUDE IN ITS SUMMARY A STATEMENT ON HOW PARENTS MAY OBTAIN INFORMATION ON INDIVIDUAL CHILD CARE FACILITIES, AND TO REQUIRE CHILD CARE FACILITIES TO POST THE SUMMARY IN A PROMINENT PLACE.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 110-102 reads as rewritten:

"§ 110-102. **Information for parents.**

The Secretary shall provide to each operator of a child care facility a summary of this Article for the parents, guardian, or full-time custodian of each child receiving child care in the facility to be distributed by the operator. Operators of child care facilities shall provide a copy of the summary to each child's parent, guardian, or full-time custodian before the child is enrolled in the child care facility. The child's parent, guardian, or full-time custodian shall sign a statement attesting that he or she received a copy of the summary before the child's enrollment. The summary shall include the name and address of the Secretary and the address of the Commission. The summary shall explain how parents may obtain information on individual child care facilities maintained in public files by the Division of Child Development. The summary shall also include a statement regarding the mandatory duty prescribed in G.S. 7B-301 of any person suspecting child abuse or neglect has taken place in child care, or elsewhere, to report to the county Department of Social Services. The statement shall include the definitions of child abuse and neglect described in the Juvenile Code in G.S. 7B-101 and of child abuse described in the Criminal Code in G.S. 14-318.2 and G.S. 14-318.4. The statement shall stress that this reporting law does not require that the person reporting reveal the person's identity.

The summary of this Article shall be posted with the facility's license in accordance with G.S. 110-99. Religious-sponsored programs operating pursuant to G.S. 110-106 shall post the summary in a prominent place at all times so that it is easily reviewed by parents."

**SECTION 2.** This act becomes effective October 1, 2003.

In the General Assembly read three times and ratified this the 5<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 3:07 p.m. on the 12<sup>th</sup> day of June, 2003.

**H.B. 706**

**Session Law 2003-197**

AN ACT AMENDING THE CHARTER OF THE CITY OF CHARLOTTE AND THE GENERAL STATUTES ESTABLISHING A REGIONAL PUBLIC TRANSPORTATION AUTHORITY TO ALLOW THE CITY AND A REGIONAL PUBLIC TRANSPORTATION AUTHORITY TO PURCHASE APPARATUS, SUPPLIES, MATERIALS, OR EQUIPMENT FOR PUBLIC TRANSIT PURPOSES FROM PERSONS OR ENTITIES THAT HAVE RECENTLY MET STATE BIDDING LAW REQUIREMENTS AND PROVIDED APPARATUS, SUPPLIES, MATERIALS, OR EQUIPMENT TO THE FEDERAL GOVERNMENT, THE STATE OF NORTH CAROLINA, OR ANOTHER STATE.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Section 8.87 of the Charter of the City of Charlotte, being S.L. 2000-26, as amended by S.L. 2000-61, reads as rewritten:

"Section 8.87. Transit Procurements. (a) In addition to other authorized methods of procurement, the City of Charlotte may contract for the purchase, lease, or other acquisition of any apparatus, supplies, materials, or equipment for public transit purposes using the competitive proposal method provided in G.S. 143-129(h).

(b) The City of Charlotte may contract for the purchase, lease, or other acquisition of any apparatus, supplies, materials, or equipment for public transit purposes with any person or entity that, within the previous 60 months, after having completed a public formal bid process substantially similar to that required by Article 8 of Chapter 143 of the General Statutes or through the competitive proposal method provided in G.S. 143-129(h), has contracted to furnish the apparatus, supplies, materials, or equipment to any unit or agency approved in G.S. 143-129(g) if the person or entity is willing to furnish the items at the same or more favorable prices, terms, and conditions as those provided under the contract with the other unit or agency. Any purchase made under this section shall be approved by the City Council as provided in G.S. 143-129(g)."

**SECTION 2.** G.S. 160A-610 is amended by adding a new subdivision to read:

"(26) To contract for the purchase, lease, or other acquisition of any apparatus, supplies, materials, or equipment for public transit purposes with any person or entity that, within the previous 60 months, after having completed a public formal bid process substantially similar to that required by Article 8 of Chapter 143 of the General Statutes or through the competitive proposal method provided in G.S. 143-129(h), has contracted to furnish the apparatus, supplies, materials, or equipment to any unit or agency approved in G.S. 143-129(g) if the person or entity is willing to furnish the items at the same or more favorable prices, terms, and conditions as those provided under the contract with the other unit or agency. Any purchase made under this section shall be approved by the Board of Trustees as provided in G.S. 143-129(g)."

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

In the General Assembly read three times and ratified this the 5<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 3:08 p.m. on the 12<sup>th</sup> day of June, 2003.

## **H.B. 727**

## **Session Law 2003-198**

AN ACT TO CLARIFY THAT MEMBERS OF THE SOIL AND WATER CONSERVATION COMMISSION ARE AUTHORIZED TO HOLD OFFICE CONCURRENTLY WITH OTHER ELECTIVE OR APPOINTIVE OFFICES.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 143B-295 reads as rewritten:

**"§ 143B-295. Soil and Water Conservation Commission – members; selection; removal; compensation; quorum; services.**

(a) The Soil and Water Conservation Commission of the Department of Environment and Natural Resources shall be composed of seven members appointed by the Governor. The Commission shall be composed of the following members:

- (1) The president, first vice-president, and immediate past president of the North Carolina Association of Soil and Water Conservation Districts. Vacancies arising in any of these positions shall be filled through appointment by the Governor upon the nomination by the executive committee of the North Carolina Association of Soil and Water Conservation Districts;
- (2) Three supervisor members nominated by the North Carolina Association of Soil and Water Conservation Districts from its own membership representing the three major geographical regions of the State and appointed by the Governor;
- (3) One member appointed at large by the Governor.

(b) The members of the Commission, except those members serving in an ex officio capacity, shall be appointed for terms of three years and shall serve until their successors are appointed and qualified. Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death or disability of a member shall be for the balance of the unexpired term.

(c) The office of member of the Soil and Water Conservation Commission may be held concurrently with any other ~~elected or appointed~~ elective or appointive office, as ~~authorized by G.S.128-1.1 and Article VI, Section 9, of the Constitution of North Carolina.~~ in addition to the maximum number of offices permitted to be held by one person under G.S. 128-1.1.

(d) The Governor shall have the power to remove any member of the Commission from office for misfeasance, malfeasance, and nonfeasance according to the provisions of G.S. 143B-13.

(e) The members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

(f) A majority of the Commission shall constitute a quorum for the transaction of business.

(g) All clerical and other services required by the Commission shall be supplied by the Secretary of Environment and Natural Resources."

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

In the General Assembly read three times and ratified this the 5<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 12:25 p.m. on the 13<sup>th</sup> day of June, 2003.

**S.B. 33**

**Session Law 2003-199**

**AN ACT TO PROVIDE RECIPROCAL CONCEALED HANDGUN RIGHTS TO CONCEALED HANDGUN PERMIT HOLDERS OF OTHER STATES.**

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Article 54B of Chapter 14 of the General Statutes is amended by adding a new section to read:

**"§ 14-415.24. Reciprocity; out-of-state handgun permits.**

(a) A valid concealed handgun permit or license issued by another state is valid in North Carolina if that state grants the same right to residents of North Carolina who have valid concealed handgun permits issued pursuant to this Article in their possession while carrying concealed weapons in that state.

(b) The Attorney General shall maintain a registry of states that meet the requirements of this section on the North Carolina Criminal Information Network and make the registry available to law enforcement officers for investigative purposes.

(c) Every 12 months after the effective date of this subsection, the Department of Justice shall make written inquiry of the concealed handgun permitting authorities in each other state as to: (i) whether a North Carolina resident may carry a concealed handgun in their state based upon having a valid North Carolina concealed handgun permit and (ii) whether a North Carolina resident may apply for a concealed handgun permit in that state based upon having a valid North Carolina concealed handgun permit. The Department of Justice shall attempt to secure from each state permission for North Carolina residents who hold a valid North Carolina concealed handgun permit to carry a concealed handgun in that state, either on the basis of the North Carolina permit or on the basis that the North Carolina permit is sufficient to permit the issuance of a similar license or permit by the other state."

**SECTION 2.** G.S. 14-269(a1) reads as rewritten:

"(a1) It shall be unlawful for any person willfully and intentionally to carry concealed about his person any pistol or gun except in the following circumstances:

- (1) The person is on the person's own premises.
- (2) The deadly weapon is a handgun, and the person has a concealed handgun permit issued in accordance with Article 54B of this ~~Chapter~~. Chapter or considered valid under G.S. 14-415.24."

**SECTION 3.** G.S. 14-415.24(b), as enacted by this act, is effective when this act becomes law. The Attorney General shall implement G.S. 14-415.24(b), as enacted by Section 1 of this act, within 60 days after this act becomes law. The remainder of this act becomes effective 60 days after this act becomes law.

In the General Assembly read three times and ratified this the 4<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 8:16 a.m. on the 14<sup>th</sup> day of June, 2003.

**H.B. 598****Session Law 2003-200**

**AN ACT ADDING CERTAIN DESCRIBED PROPERTY TO THE CORPORATE LIMITS OF THE CITY OF ROANOKE RAPIDS.**

*The General Assembly of North Carolina enacts:*

**SECTION 1.** The following described property is added to the corporate limits of the City of Roanoke Rapids:

Being a tract of land in Weldon Township, Halifax County, North Carolina, and being more particularly described as follows:

BEGINNING at an existing concrete monument found at the intersection of the northern right-of-way line of N.C.S.R. 1734 and the eastern right-of-way line of N.C.S.R. 1710 in the Town of Weldon, North Carolina. Said beginning point having



North Carolina Grid (N.A.D. 83) coordinates of N(Y) = 980,762.16 feet and E(X) = 2,405,278.33 feet and being shown on a drawing titled "Plat Showing Property Being Conveyed to Duquesne Energy, Inc. from Rightmeyer Machine Rentals, Inc.", recorded at Plat Cabinet 6, Slide 22-T of the Halifax County Registry: thence from said point of beginning S 08° 14' 55" W - 100.16 feet with and along the eastern right-of-way line of N.C.S.R. 1710 to an existing iron pipe; thence S 89° 42' 48" E 619.18 feet to a point; thence S 11° 20' 22" W - 71.32 feet to a point; thence N 89° 42' 48" W 685.98 feet to a point; thence N 08° 14' 55" E - 99.43 feet to a point; thence S 89° 46' 25" W 20.21 feet to a point; thence N 08° 20' 54" E - 809.73 feet to a point; thence S 81° 32' 15" E 400.22 feet to a point; thence N 08° 26' 37" E - 248.43 feet to a point; thence S 89° 47' 37" E 360.29 feet to a point; thence S 11° 20' 22" W - 71.34 feet to a point; thence N 89° 47' 37" W 285.92 feet to an existing iron pipe, the northeast corner of Halifax County Property as described in Deed Book 1440, Page 467; thence S 08° 26' 37" W - 257.86 feet with and along the eastern line of the property described in Deed Book 1440, Page 467 to an existing iron pipe found; thence N 81° 32' 15" W - 400.10 feet to a new iron rebar set; thence S 08° 20' 54" W - 658.24 feet with and along the eastern right-of-way line of N.C. S.R. 1710 to an existing iron pipe found; thence N 89° 46' 25" E - 20.07 feet with and along the northern right-of-way line of N.C.S.R. 1734 to the point of beginning containing 173,799 square feet (3,990 acres) plus or minus.

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

In the General Assembly read three times and ratified this the 16<sup>th</sup> day of June, 2003.

Became law on the date it was ratified.

#### **S.B. 414**

#### **Session Law 2003-201**

AN ACT TO ALLOW ROBESON COUNTY TO DELAY THE REAPPRAISAL OF PROPERTY FOR PROPERTY TAX PURPOSES BY ONE YEAR.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Notwithstanding the provisions of G.S. 105-286, Robeson County may delay the reappraisal of real property required to be completed by 2004 under that section until 2005. This delay does not delay the schedule of reappraisals established in G.S. 105-286, and Robeson County must then complete its next reappraisal by 2012.

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

In the General Assembly read three times and ratified this the 17<sup>th</sup> day of June, 2003.

Became law on the date it was ratified.

#### **H.B. 626**

#### **Session Law 2003-202**

AN ACT TO ALLOW THE CITY OF GREENSBORO AND THE PIEDMONT TRIAD INTERNATIONAL AIRPORT ADMINISTRATION TO AMEND THE BOUNDARIES OF CERTAIN TERRITORY THAT CANNOT BE ANNEXED BY THE CITY UNDER GENERAL LAW.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** The City of Greensboro and the Piedmont Triad International Airport Administration may enter into agreements to amend the boundaries of the territory described in Section 4 of Chapter 818 of the 1985 Session Laws to meet the changing needs of the City and the Airport Administration.

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

In the General Assembly read three times and ratified this the 17<sup>th</sup> day of June, 2003.

Became law on the date it was ratified.

**H.B. 680**

**Session Law 2003-203**

**AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF GRANITE QUARRY.**

*The General Assembly of North Carolina enacts:*

**SECTION 1.** The Charter of the Town of Granite Quarry is revised and consolidated to read:

"CHARTER OF THE TOWN OF GRANITE QUARRY.

"CHAPTER I.

"INCORPORATION AND CORPORATE POWERS.

"Section 1-1. **Incorporation and Corporate Powers.** The inhabitants of the Town of Granite Quarry are a body corporate and politic under the name "Town of Granite Quarry". Under that name they have all the powers, duties, rights, privileges, and immunities conferred and imposed on cities by the general law of North Carolina.

"CHAPTER II.

"CORPORATE BOUNDARIES.

"Section 2-1. **Town Boundaries.** Until modified in accordance with law, the boundaries of the Town of Granite Quarry are as shown upon the official map showing the current town boundaries retained in the office of the Town Clerk.

"CHAPTER III.

"GOVERNING BODY.

"Section 3-1. **Structure of Governing Body; Number of Members.** The governing body of the Town of Granite Quarry is the Board of Aldermen, which has five members.

"Section 3-2. **Manner of Electing Board.** The qualified voters of the entire Town elect the members of the Board.

"Section 3-3. **Terms of Office of Board Members.** Members of the Board are elected to four-year terms. In 2003, and each four years thereafter, three members of the Board shall be elected. In 2005, and each four years thereafter, two members of the Board shall be elected.

"Section 3-4. **Election of Mayor; Term of Office.** At the organizational meeting of the Board following each election, the Board shall elect one of its members to serve as Mayor and one to serve as Mayor Pro Tempore. The Mayor and Mayor Pro Tempore shall serve at the pleasure of the Board.

"Section 3-5. **Mayor to Vote in Case of Tie Vote Only.** The Mayor shall not vote on any matter before the Board, except when there exists a tie vote among the other members of the Board.

## "CHAPTER IV.

## "ELECTIONS.

"Section 4-1. **Conduct of Town Elections.** Town officers shall be elected on a nonpartisan basis and the results determined by a plurality as provided in G.S. 163-292.

## "CHAPTER V.

## "ADMINISTRATION.

"Section 5-1. **Town to Operate Under Mayor-Council Plan.** The Town of Granite Quarry operates under the mayor-council plan as provided in Part 3 of Article 7 of Chapter 160A of the General Statutes."

**SECTION 2.** The purpose of this act is to revise the Charter of the Town of Granite Quarry and to consolidate herein certain acts concerning the property, affairs, and government of the Town.

**SECTION 3.** The following acts or portions of acts, having served the purposes for which they were enacted, or having been consolidated into this act, are hereby repealed:

- Chapter 259, Private Laws of 1901
- Chapter 43, Private Laws of 1905
- Chapter 667, Session Laws of 1949
- Chapter 14, Session Laws of 1957
- Chapter 76, Session Laws of 1959.

**SECTION 4.** No provision of this act is intended, nor shall be construed, to affect in any way any rights or interests (whether public or private):

- (1) Now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provisions of law repealed by this act.
- (2) Derived from, or which might be sustained or preserved in reliance upon, action heretofore taken pursuant to or within the scope of any provisions of law repealed by this act.

**SECTION 5.** No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted, shall be revived by:

- (1) The repeal herein of any act repealing such law, or
- (2) Any provision of this act that disclaims an intention to repeal or affect enumerated or designated laws.

**SECTION 6.** All existing ordinances and resolutions of the Town of Granite Quarry and all existing rules or regulations of departments or agencies of the Town of Granite Quarry not inconsistent with the provisions of this act shall continue in full force and effect until repealed, modified, or amended.

**SECTION 7.** No action or proceeding of any nature (whether civil or criminal, judicial or administrative, or otherwise) pending at the effective date of this act by or against the Town of Granite Quarry or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

**SECTION 8.** If any part of this act or the application thereof to any person or circumstance is held to be invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

**SECTION 9.** Whenever a reference is made in this act to a particular provision of the General Statutes and such provision is later amended, repealed, or superseded, the reference shall be deemed amended to refer to the amended General

Statute or to the General Statute which most nearly corresponds to the statutory provision which is repealed or superceded.

**SECTION 10.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 17<sup>th</sup> day of June, 2003.

Became law on the date it was ratified.

**H.B. 774****Session Law 2003-204**

AN ACT CONCERNING SATELLITE ANNEXATIONS BY THE TOWN OF BEAUFORT.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 160A-58.1(b) reads as rewritten:

"(b) A noncontiguous area proposed for annexation must meet all of the following standards:

- (1) ~~The nearest point on the proposed satellite corporate limits must be not more than three miles from the primary corporate limits of the annexing city.~~
- (2) ~~No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city, except as set forth in subsection (b2) of this section.~~
- (3) The area must be so situated that the annexing city will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.
- (4) If the area proposed for annexation, or any portion thereof, is a subdivision as defined in G.S. 160A-376, all of the subdivision must be included.
- (5) ~~The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed ten percent (10%) of the area within the primary corporate limits of the annexing city.~~

~~This subdivision does not apply to the Cities of Claremont, Concord, Conover, Newton, Sanford, Salisbury, and Southport, and the Towns of Catawba, Maiden, Midland, Swansboro, and Warsaw.~~

- (6) The area must be east of a line that runs from the confluence of Taylor's Creek and Gallant's Channel northwardly with Gallant's Channel to Town Creek, then northwestwardly from Town Creek to the Intracoastal Waterway in Newport River, then northwardly with the Intracoastal Waterway to a point where an extension of SR 1162 would intersect the Waterway of the Intracoastal Waterway, and Beaufort municipal sewer must be available within the area."

**SECTION 2.** Nothing in this act shall be construed to limit or be limited by any provisions of Chapter 432 of the 1997 Session Laws or any other existing laws or ordinances.

**SECTION 3.** This act applies to the Town of Beaufort only.

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

In the General Assembly read three times and ratified this the 17<sup>th</sup> day of June, 2003.

Became law on the date it was ratified.

**S.B. 251****Session Law 2003-205****AN ACT TO PROHIBIT THE PRACTICE OF THE "REBIRTHING" TECHNIQUE.**

Whereas, United States Representative Sue Myrick, a member of the North Carolina congressional delegation, introduced House Concurrent Resolution 435 in Congress encouraging states to outlaw "rebirthing"; and

Whereas, the United States Congress adopted House Concurrent Resolution 435, which passed the House of Representatives by a vote of 397-0; and

Whereas, in House Concurrent Resolution 435, the United States Congress expressed the sense that the technique known as "rebirthing", a form of "attachment therapy", is a dangerous and harmful practice and should be prohibited; and

Whereas, on April 18, 2000, Candace Newmaker, a child from North Carolina, died from use of the "rebirthing technique", and four other children have died from other forms of "attachment therapy"; and

Whereas, the American Psychological Association does not recognize "rebirthing" as proper treatment; Now, therefore,

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Article 52 of Chapter 14 of the General Statutes is amended by adding the following new section to read:

**"§ 14-401.21. Practicing "rebirthing technique"; penalty.**

(a) It is unlawful for a person to practice a technique, whether known as a "rebirthing technique" or referred to by any other name, to reenact the birthing process in a manner that includes restraint and creates a situation in which a patient may suffer physical injury or death.

(b) A violation of this section is punishable as follows:

(1) For a first offense under this section, the person is guilty of a Class A1 misdemeanor.

(2) For a second or subsequent offense under this section, the person is guilty of a Class I felony."

**SECTION 2.** G.S. 122C-60(a) reads as rewritten:

"(a) Physical restraint or seclusion of a client shall be employed only when there is imminent danger of abuse or injury to the client or others, when substantial property damage is occurring, or when the restraint or seclusion is necessary as a measure of therapeutic treatment. For purposes of this section, a technique to reenact the birthing process as defined by G.S. 14-401.21 is not a measure of therapeutic treatment. All instances of restraint or seclusion and the detailed reasons for such action shall be documented in the client's record. Each client who is restrained or secluded shall be observed frequently, and a written notation of the observation shall be made in the client's record."

**SECTION 3.** Section 1 of this act becomes effective December 1, 2003, and applies to offenses committed on and after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 11<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 11:27 a.m. on the 18<sup>th</sup> day of June, 2003.

**H.B. 357****Session Law 2003-206**

AN ACT TO PROHIBIT A PERSON THAT ACCEPTS CREDIT, CHARGE, OR DEBIT CARDS FOR THE TRANSACTION OF BUSINESS FROM PRINTING MORE THAN FIVE DIGITS OF A CREDIT, CHARGE, OR DEBIT CARD ACCOUNT NUMBER OR AN EXPIRATION DATE ON A SALES RECEIPT AND TO PROHIBIT A PERSON FROM SELLING A CASH REGISTER OR OTHER MACHINE OR DEVICE THAT ELECTRONICALLY PRINTS RECEIPTS OF CREDIT, CHARGE, OR DEBIT CARD TRANSACTIONS THAT CANNOT BE PROGRAMMED OR OPERATED TO PRODUCE A RECEIPT WITH FIVE OR FEWER DIGITS OF THE CREDIT, CHARGE, OR DEBIT CARD ACCOUNT NUMBER AND NO EXPIRATION DATE PRINTED ON THE RECEIPT.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Article 19C of Chapter 14 of the General Statutes is amended by adding two new sections to read:

**"§ 14-113.24. Credit, charge, or debit card numbers on receipts.**

(a) For purposes of this section, the word 'person' means the person that owns or leases the cash register or other machine or device that electronically prints receipts of credit, charge, or debit card transactions.

(b) Except as provided in this section, no person that accepts credit, charge, or debit cards for the transaction of business shall print more than five digits of the credit, charge, or debit card account number or the expiration date upon any receipt with the intent to provide the receipt to the cardholder at the point of sale. This section applies to a person who employs a cash register or other machine or device that electronically prints receipts for credit, charge, or debit card transactions that is first used on or after March 1, 2004. This section does not apply to a person whose sole means of recording a credit, charge, or debit card number for the transaction of business is by handwriting or by an imprint or copy of the credit, charge, or debit card.

(c) A person who violates this section commits an infraction as defined in G.S. 14-3.1 and is subject to a penalty of up to five hundred dollars (\$500.00) per violation, not to exceed five hundred dollars (\$500.00) in any calendar month or two thousand dollars (\$2,000) in any calendar year. A person who receives a citation for violation of this section is not subject to the penalty provided in this subsection if the person establishes in court that the person came into compliance with this section within 30 days of the issuance of the citation and the person has remained in compliance with this section.

**"§ 14-113.25. Sale of certain cash registers and other receipt printing machines.**

(a) No person shall sell or offer to sell a cash register or other machine or device that electronically prints receipts of credit, charge, or debit card transactions that cannot be programmed or operated to produce a receipt with five or fewer digits of the credit, charge, or debit card account number and no expiration date printed on the receipt. This

subsection applies to cash registers or other machines or devices sold or offered for sale for use in the ordinary course of business in this State.

(b) A person who violates this section commits an infraction as defined in G.S. 14-3.1 and is subject to a penalty of up to five hundred dollars (\$500.00) per violation. For purposes of assessing penalties pursuant to this subsection, the sale or offer for sale of each individual cash register or other machine or device that electronically prints receipts of credit, charge, or debit card transactions in violation of this section is treated as a separate violation."

**SECTION 2.** G.S. 14-113.24(b) reads as rewritten:

"(b) Except as provided in this section, no person that accepts credit, charge, or debit cards for the transaction of business shall print more than five digits of the credit, charge, or debit card account number or the expiration date upon any receipt with the intent to provide the receipt to the cardholder at the point of sale. This section applies to a person who employs a cash register or other machine or device that electronically prints receipts for credit, charge, or debit card ~~transactions that is first used on or after March 1, 2004.~~ transactions. This section does not apply to a person whose sole means of recording a credit, charge, or debit card number for the transaction of business is by handwriting or by an imprint or copy of the credit, charge, or debit card."

**SECTION 3.** G.S. 14-113.22(b) reads as rewritten:

"(b) Notwithstanding subsection (a), (a1), or (a2) of this section, any person who commits an act made unlawful by ~~this Article~~ G.S. 14-113.20 or G.S. 14-113.20A may also be liable for damages under G.S. 1-539.2C."

**SECTION 4.** Sections 1, 3, and 4 of this act become effective March 1, 2004. Section 2 of this act becomes effective July 1, 2005.

In the General Assembly read three times and ratified this the 9<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 11:35 a.m. on the 18<sup>th</sup> day of June, 2003.

## S.B. 315

## Session Law 2003-207

AN ACT RELATING TO CONTRACTS OF MINORS FOR ARTISTIC, CREATIVE, OR ATHLETIC SERVICES.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 48A-1 through G.S. 48A-3 are designated as Article 1, "Age of Majority", of Chapter 48A of the General Statutes.

**SECTION 2.** Chapter 48A of the General Statutes is amended by adding a new Article to read:

"Article 2.

"Certain Contracts of Minors.

**"§ 48A-11. Applicability.**

This Article applies to any of the following contracts entered into between an unemancipated minor and any third party or parties:

- (1) A contract pursuant to which a person is employed or agrees to render artistic or creative services, either directly or through a third party, including, but not limited to, a personal services corporation or loan-out company. As used in this Article, the term "artistic or creative services" includes, but is not limited to, services as an actor, actress,

dancer, musician, comedian, singer, stunt person, voice-over artist, or other performer or entertainer, or as a songwriter, musical producer or arranger, writer, director, producer, production executive, choreographer, composer, conductor, or designer.

- (2) A contract pursuant to which a person agrees to purchase, or otherwise secure, sell, lease, license, or otherwise dispose of literary, musical, or dramatic properties, or use of a person's likeness, voice recording, performance, or story of or incidents in his or her life, either tangible or intangible, or any rights therein for use in motion pictures, television, the production of sound recordings in any format now known or hereafter devised, the legitimate or living stage, or otherwise in the entertainment field.
- (3) A contract pursuant to which a person is employed or agrees to render services as a participant or player in a sport.
- (4) Where a minor renders services as an extra, background performer, or in a similar capacity, through an agency or service that provides one or more performers for a fee, such as a casting agency, the agency or service shall be considered the minor's employer for the purposes of this Article.

**"§ 48A-12. No disaffirmance if approved by superior court.**

(a) A contract, otherwise valid, of a type described in G.S. 48A-11, entered into during minority, cannot be disaffirmed on that ground either during the minority of the person entering into the contract, or at any time thereafter, if the contract has been approved by the superior court in any county in which the minor resides or is employed or in which any party to the contract has its principal office in this State for the transaction of business.

(b) Approval of the court may be given on petition of any party to the contract, after reasonable notice to all other parties to the contract as is fixed by the court, with opportunity to the other parties to appear and be heard.

(c) Approval of the court given under this section extends to the whole of the contract and all of its terms and provisions, including, but not limited to, any optional or conditional provisions contained in the contract for extension, prolongation, or termination of the term of the contract.

(d) For the purposes of any proceeding under this Article, a parent or legal guardian, as the case may be, entitled to the physical custody, care, and control of the minor at the time of the proceeding shall be considered the minor's guardian ad litem for the proceeding, unless the court shall determine that appointment of a different individual as guardian ad litem is required in the best interests of the minor.

**"§ 48A-12.1. Copies of certain documents to be provided.**

A parent or guardian, as the case may be, entitled to the physical custody, care, and control of a minor, who enters into a contract of a type described in G.S. 48A-11 shall provide a certified copy of the minor's birth certificate indicating the minor's minority to the other party or parties to the contract and in addition, in the case of a guardian, a certified copy of the court document appointing the person as the minor's legal guardian.

**"§ 48A-13. Financial safeguards in court orders approving contracts.**

(a) Notwithstanding any other statute, in an order approving a minor's contract of a type described in G.S. 48A-11, the court shall require that fifteen percent (15%) of the minor's gross earnings pursuant to the contract be set aside by the minor's employer in



trust, in an account or other savings plan, and preserved for the benefit of the minor in accordance with G.S. 48A-14. The court may also require that more than fifteen percent (15%) of the minor's gross earnings be set aside in trust, in an account or other savings plan, and preserved for the benefit of the minor in accordance with G.S. 48A-14, upon request of the minor's parent or legal guardian, or the minor, through his or her guardian ad litem.

(b) The court shall require that at least one parent or legal guardian, as the case may be, entitled to the physical custody, care, and control of the minor at the time the order is issued be appointed as trustee of the funds ordered to be set aside in trust for the benefit of the minor, unless the court shall determine that appointment of a different individual, individuals, entity, or entities as trustee or trustees is required in the best interest of the minor.

(c) The trustee or trustees of the funds ordered to be set aside in trust shall promptly provide the minor's employer with a true and accurate photocopy of the trustee's statement pursuant to G.S. 48A-14(c).

(d) The minor's employer shall deposit or disburse the funds as required by the order within 15 business days of receiving the order and receiving the trustee's statement pursuant to G.S. 48A-14 and thereafter as funds might be received. Notwithstanding any other statute, pending receipt of the trustee's statement, the minor's employer shall hold for the benefit of the minor the percentage ordered by the court of the minor's gross earnings pursuant to the contract.

(e) When making the initial deposit of funds pursuant to the order, the minor's employer shall provide the financial institution with a copy of the order.

(f) Once the minor's employer deposits the set-aside funds pursuant to G.S. 48A-14, in trust, in an account or other savings plan, the minor's employer shall have no further obligation or duty to monitor or account for the funds. The trustee or trustees of the trust shall be the only individual, individuals, entity, or entities with the obligation or duty to monitor and account for those funds once they have been deposited by the minor's employer. The trustee or trustees shall do an annual accounting of the funds held in trust, in an account or other savings plan, in accordance with Article 21 of Chapter 28A of the General Statutes.

(g) The court shall have continuing jurisdiction over the trust established pursuant to the order and may at any time, upon petition of the parent or legal guardian, the minor, through his or her guardian ad litem, or the trustee or trustees, on good cause shown, order that the trust be amended or terminated, notwithstanding the provisions of the declaration of trust. An order amending or terminating a trust may be made only after reasonable notice to the beneficiary, to the parent or guardian, if any, and to the trustee or trustees of the funds if the beneficiary is then a minor, with opportunity for all parties to appear and be heard.

(h) The trustee or trustees of the funds ordered to be set aside shall promptly notify the minor's employer in writing of any change in facts that affect the employer's obligation or ability to set aside the funds in accordance with the order, including, but not limited to, a change of financial institution or account number, or the existence of a new or amended order issued pursuant to subsection (g) of this section amending or terminating the employer's obligations under the original order. The written notification shall include the information set forth in subsection (c) of this section and shall be accompanied by a true and accurate photocopy of the new or amended order.

**"§ 48A-13.1. Financial safeguards when no court order.**

(a) Notwithstanding any other statute, for any minor's contract of a type described in G.S. 48A-11 that is not being submitted for approval by the court pursuant to G.S. 48A-12, or for which the court has issued a final order denying approval, fifteen percent (15%) of the minor's gross earnings pursuant to the contract shall be set aside by the minor's employer in trust, in an account or other savings plan, and preserved for the benefit of the minor in accordance with G.S. 48A-14. At least one parent or legal guardian, as the case may be, entitled to the physical custody, care, and control of the minor, shall be the trustee of the funds set aside for the benefit of the minor, unless the court, upon petition by the parent or legal guardian, the minor, through his or her guardian ad litem, or the trustee or trustees of the trust, shall determine that appointment of a different individual, individuals, entity, or entities as trustee or trustees is required in the best interest of the minor.

(b) A parent or guardian, as the case may be, entitled to the physical custody, care, and control of the minor shall promptly provide the minor's employer with a true and accurate photocopy of the trustee's statement pursuant to G.S. 48A-14(c) and in addition, in the case of a guardian, a certified copy of the court document appointing the person as the minor's legal guardian.

(c) The minor's employer shall deposit fifteen percent (15%) of the minor's gross earnings pursuant to the contract within 15 business days of receiving the trustee's statement pursuant to G.S. 48A-14(c), or if the court denies approval of the contract, within 15 business days of receiving a final order denying approval of the contract and thereafter as funds might be received. Notwithstanding any other statute, pending receipt of the trustee's statement or the final court order, the minor's employer shall hold for the benefit of the minor the fifteen percent (15%) of the minor's gross earnings pursuant to the contract.

(d) Once the minor's employer deposits the set-aside funds in trust, in an account or other savings plan pursuant to G.S. 48A-14, the minor's employer shall have no further obligation or duty to monitor or account for the funds. The trustee or trustees of the trust shall be the only individual, individuals, entity, or entities with the obligation or duty to monitor and account for those funds once they have been deposited by the minor's employer. The trustee or trustees shall do an annual accounting of the funds held in trust, in an account or other savings plan, in accordance with G.S. 28A-21-1, et seq.

(e) Upon petition of the parent or legal guardian, the minor, through his or her guardian ad litem, or the trustee or trustees of the trust, to the superior court in any county in which the minor resides or in which the trust is established, the court may at any time, on good cause shown, order that the trust be amended or terminated, notwithstanding the provisions of the declaration of trust. An order amending or terminating a trust may be made only after reasonable notice to the beneficiary, to the parent or guardian, if any, and to the trustee or trustees of the funds if the beneficiary is then a minor, with opportunity for all parties to appear and be heard.

(f) A parent or guardian, as the case may be, entitled to the physical custody, care, and control of the minor shall promptly notify the minor's employer in writing of any change in facts that affect the employer's obligation or ability to set aside funds for the benefit of the minor in accordance with this section, including, but not limited to, a change of financial institution or account number, or the existence of a new or amended order issued pursuant to subsection (e) of this section amending or terminating the employer's obligations under this section. The written notification shall be accompanied

by a true and accurate photocopy of the trustee's statement and attachments pursuant to subdivision (c) of G.S. 48A-14, or a true and accurate photocopy of the new or amended order.

(g) Where a parent or guardian, as the case may be, is entitled to the physical custody, care, and control of a minor who enters into a contract of a type described in G.S. 48A-11, the relationship between the parent or guardian, as the case may be, and the minor is a fiduciary relationship that is governed by the law of trusts, whether or not a court has issued a formal order to that effect. The parent or guardian, as the case may be, acting in his or her fiduciary relationship, shall, with the earnings and accumulations of the minor under the contract, pay all liabilities incurred by the minor under the contract, including, but not limited to, payments for taxes on all earnings, including taxes on the amounts set aside under this section or G.S. 48A-13 and payments for personal or professional services rendered to the minor or the business related to the contract. Nothing in this subsection shall be construed to alter any other existing responsibilities of a parent or legal guardian to provide for the support of a minor child.

(h) With respect to contracts pursuant to which a person is employed to render services as a musician, singer, songwriter, musical producer, or arranger only, "gross earnings" for purposes of this Article means the amount paid directly to the minor pursuant to the contract, including the payment of any advances to the minor pursuant to the contract, but excluding deductions to offset those advances or other expenses incurred by the employer pursuant to the contract.

**"§ 48A-14. Trust to be established.**

(a) The trustee or trustees shall establish a trust pursuant to this section at a bank, savings and loan institution, credit union, brokerage firm, or company registered under the Investment Company Act of 1940, 15 U.S.C. § 80a-1, et seq., unless a similar trust has been previously established, for the purpose of preserving for the benefit of the minor the portion of the minor's gross earnings pursuant to G.S. 48A-13(a) or pursuant to G.S. 48A-13.1(a). The trustee or trustees shall establish the trust pursuant to this section within seven business days after the minor's contract is signed by the minor and the employer.

(b) Except as otherwise provided in this section, prior to the date on which the beneficiary of the trust attains the age of 18 years or the issuance of a declaration of emancipation of the minor under Article 35 of Chapter 7B of the General Statutes, no withdrawal by the beneficiary or any other individual, individuals, entity, or entities may be made of funds on deposit in trust without written order of the superior court pursuant to G.S. 48A-13(g) or G.S. 48A-13.1(e). Upon reaching the age of 18 years, the beneficiary may withdraw the funds on deposit in trust only after providing a certified copy of the beneficiary's birth certificate to the financial institution where the trust is located.

(c) The trustee or trustees shall, within 10 business days after the minor's contract is signed by the minor and the employer, prepare a written statement under penalty of perjury that shall include the name, address, and telephone number of the financial institution, the name of the account, the number of the account, the name of the minor beneficiary, the name of the trustee or trustees of the account, and any additional information needed by the minor's employer to deposit into the account the portion of the minor's gross earnings prescribed by G.S. 48A-13(a) or G.S. 48A-13.1(a). The trustee or trustees shall attach to the written statement a true and accurate photocopy of any information received from the financial institution confirming the creation of the

account, such as an account agreement, account terms, passbook, or other similar writings.

(d) If the trust is established in the United States, it shall be established either with a financial institution that is and remains insured at all times by the Federal Deposit Insurance Corporation, the Securities Investor Protection Corporation, or the National Credit Union Share Insurance Fund or their respective successors, or with a company that is and remains registered under the Investment Company Act of 1940, 15 U.S.C. § 80a-1, et seq. If the trust is established outside the United States, the financial institution shall be an international banking corporation, as defined in G.S. 53-232.2. The trustee or trustees of the trust shall be the only individual, individuals, entity, or entities with the obligation or duty to ensure that the funds remain in trust, in an account or other savings plan, in a financial institution insured in accordance with this section, or with a company that is and remains registered under the Investment Company Act of 1940, 15 U.S.C. § 80a-1, et seq., as authorized by this section.

(e) Upon application by the trustee or trustees to the financial institution or company where the trust is held, the trust funds may be handled by the trustee or trustees in any of the following methods:

- (1) The trustee or trustees may transfer funds to another account or other savings plan at the same financial institution or company, provided that the funds transferred shall continue to be held in trust and subject to this section.
- (2) The trustee or trustees may transfer funds to another financial institution or company, provided that the funds transferred shall continue to be held in trust and subject to this Article and that the trustee or trustees have provided written notification to the financial institution or company to which the funds will be transferred that the funds are subject to this section and written notice of the requirements of this Article.
- (3) The trustee or trustees may use all or a part of the funds to purchase, in the name of and for the benefit of the minor:
  - a. Investment funds offered by a company registered under the Investment Company Act of 1940, 15 U.S.C. § 80a-1, et seq., provided that if the underlying investments are equity securities, the investment fund is a broad-based index fund or invests broadly across the domestic or a foreign regional economy, is not a sector fund, and has assets under management of at least two hundred fifty million dollars (\$250,000,000); or
  - b. Government securities and bonds, certificates of deposit, money market instruments, money market accounts, or mutual funds investing solely in those government securities and bonds, certificates, instruments, and accounts that are available at the financial institution where the trust fund or other savings plan is held, provided that the funds remain in trust at a financial institution insured by the Federal Deposit Insurance Corporation, the Securities Investor Protection Corporation, or the National Credit Union Share Insurance Fund if within the United States or maintained in an international banking corporation, as defined in G.S. 53-232.2, if not within the United States; provided that those purchases have a maturity

date on or before the date upon which the minor will attain the age of 18 years, and provided further that any proceeds accruing from those purchases be redeposited into that account or accounts or used to further purchase any of those or similar securities, bonds, certificates, instruments, funds, or accounts.

**"§ 48A-15. Talent agency contracts.**

(a) As used in this Article, the term 'talent agency' means a person or corporation who engages in the occupation of procuring, offering, promising, or attempting to procure employment or engagements for an artist or artists. Talent agencies may, in addition, counsel or direct artists in the development of their professional careers.

(b) As used in this Article, the term 'artists' means actors and actresses rendering services on the legitimate stage and in the production of motion pictures, radio artists, musical artists, musical organizations, directors of legitimate stage, motion picture and radio productions, musical directors, writers, cinematographers, composers, lyricists, arrangers, models, and other artists and persons rendering professional services in motion picture, theatrical, radio, television, and other entertainment enterprises.

**"§ 48A-16. Disaffirmance of talent agency contracts.**

A minor cannot disaffirm a contract, otherwise valid, entered into during minority, either during the actual minority of the minor entering into the contract or at any time thereafter, with a talent agency as defined in G.S. 48A-15, to secure engagements to render artistic or creative services in motion pictures, television, the production of phonograph records, the legitimate or living stage, or otherwise in the entertainment field including, but without being limited to, services as an actor, actress, dancer, musician, comedian, singer, or other performer or entertainer, or as a writer, director, producer, production executive, choreographer, composer, conductor, or designer, where the contract has been approved by the superior court of the county where such minor resides or is employed. This approval may be given by the superior court on the petition of either party to the contract after reasonable notice to the other party thereto as may be fixed by said court, with opportunity to the other party to appear and be heard."

**SECTION 3.** This act is effective when it becomes law and applies to contracts entered into on or after January 1, 2004.

In the General Assembly read three times and ratified this the 9<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 12:30 p.m. on the 19<sup>th</sup> day of June, 2003.

**S.B. 669**

**Session Law 2003-208**

AN ACT TO AMEND THE LAW REGARDING THE CIVIL REMEDY FOR PROTECTION OF ANIMALS, AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION, AND TO AUTHORIZE THE GENERAL STATUTES COMMISSION TO STUDY THE NEED TO REGULATE "PUPPY MILLS".

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Article 1 of Chapter 19A of the General Statutes reads as rewritten:

## "Article 1.

## "Civil Remedy for Protection of Animals.

**"§ 19A-1. Definitions.**

The following definitions apply in this Article:

- (1) ~~The terms term 'animals' and 'dumb animals' include every useful living creature.~~ includes every living vertebrate in the classes Amphibia, Reptilia, Aves, and Mammalia except human beings.
- (2) The terms 'cruelty' and 'cruel treatment' include every act, omission, or neglect whereby unjustifiable physical pain, suffering, or death is caused or ~~permitted~~; but these terms shall not be construed to include ~~lawful taking of animals under the jurisdiction and regulation of the Wildlife Resources Commission, lawful activities sponsored by agencies conducting biomedical research or training, lawful activities for sport, the production of livestock or poultry, or the lawful destruction of any animal for the purpose of protecting such livestock or poultry.~~ permitted.
- (3) The term 'person' has the same meaning as in G.S. 12-3. ~~includes any persons, firm or corporation, including any nonprofit corporation, such as a society for the prevention of cruelty to animals.~~

**"§ 19A-1.1. Exemptions.**

This Article shall not apply to the following:

- (1) The lawful taking of animals under the jurisdiction and regulation of the Wildlife Resources Commission, except that this Article applies to those birds exempted by the Wildlife Resources Commission from its definition of 'wild birds' pursuant to G.S. 113-129(15a).
- (2) Lawful activities conducted for purposes of biomedical research or training or for purposes of production of livestock, poultry, or aquatic species.
- (3) Lawful activities conducted for the primary purpose of providing food for human or animal consumption.
- (4) Activities conducted for lawful veterinary purposes.
- (5) The lawful destruction of any animal for the purposes of protecting the public, other animals, or the public health.
- (6) Lawful activities for sport.

**"§ 19A-2. Purpose.**

It shall be the purpose of this Article to provide a civil remedy for the protection and humane treatment of animals in addition to any criminal remedies that are available and it shall be proper in any action to combine causes of action against one or more defendants for the protection of one or more animals. A real party in interest as plaintiff shall be held to include any ~~'person' as hereinbefore defined even though such person~~ even though the person does not have a possessory or ownership right in an animal; a real party in interest as defendant shall include any person who owns or has possession of an animal.

**"§ 19A-3. Preliminary injunction.**

Upon the filing of a verified complaint in the district court in the county in which cruelty to an animal has allegedly occurred, the judge may, ~~in his discretion,~~ as a matter of discretion, issue a preliminary injunction in accordance with the procedures set forth in G.S. 1A-1, Rule 65. Every such preliminary injunction, if the complainant so requests, may give the complainant the right to provide suitable care for the animal. If it

appears on the face of the complaint that the condition giving rise to the cruel treatment of an animal requires the animal to be removed from its owner or other person who possesses it, then it shall be proper for the court in the preliminary injunction to allow the complainant to take possession of the animal.

**"§ 19A-4. Permanent injunction.**

In accordance with G.S. 1A-1, Rule 65, a district court judge in the county in which the original action was brought shall determine the merits of the action by trial without a jury, and upon hearing such evidence as may be presented, shall enter orders as ~~he~~the court deems appropriate, including a permanent injunction or final determination of the animal's custody. and dismissal of the action along with dissolution of any preliminary injunction that had been issued. In addition, if the court finds by a preponderance of the evidence that even if a permanent injunction were issued there would exist a substantial risk that the animal would be subjected to further cruelty if returned to the possession of the defendant, the court may terminate the defendant's ownership and right of possession of the animal and transfer ownership and right of possession to the plaintiff or other appropriate successor owner."

**SECTION 2.(a)** The General Statutes Commission, in consultation with the Department of Agriculture and Consumer Services, may study the need to regulate the unlimited breeding of dogs and cats and the animal cruelty resulting from the operations commonly referred to as "puppy mills".

**SECTION 2.(b)** The General Statutes Commission may make an interim report to the 2003 General Assembly, Regular Session 2004, and shall make its final report to the 2005 General Assembly.

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

In the General Assembly read three times and ratified this the 9<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 12:31 p.m. on the 19<sup>th</sup> day of June, 2003.

**H.B. 201**

**Session Law 2003-209**

AN ACT TO REQUIRE A REVIEW PROCEDURE TO ENSURE THAT CANDIDATES' NAMES APPEAR ON THE BALLOT IN ACCORDANCE WITH LAW.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 163-165.5 reads as rewritten:

**"§ 163-165.5. Contents of official ballots.**

Each official ballot shall contain all the following elements:

- (1) The heading prescribed by the State Board of Elections. The heading shall include the term "Official Ballot".
- (2) The title of each office to be voted on and the number of seats to be filled in each ballot item.
- (3) The names of the candidates as they appear on their notice of candidacy filed pursuant to G.S. 163-106 or G.S. 163-323, or on petition forms filed in accordance with G.S. 163-122. No title, appendage, or appellation indicating rank, status, or position shall be printed on the official ballot in connection with the candidate's name. Candidates, however, may use the title Mr., Mrs., Miss, or Ms.

Nicknames shall be permitted on an official ballot if used in the notice of candidacy or qualifying petition, but the nickname shall appear according to standards adopted by the State Board of Elections. Those standards shall allow the presentation of legitimate nicknames in ways that do not mislead the voter or unduly advertise the candidacy. In the case of candidates for presidential elector, the official ballot shall not contain the names of the candidates for elector but instead shall contain the nominees for President and Vice President which the candidates for elector represent. The State Board of Elections shall establish a review procedure that local boards of elections shall follow to ensure that candidates' names appear on the official ballot in accordance with this subdivision.

- (4) Party designations in partisan ballot items.
- (5) A means by which the voter may cast write-in votes, as provided in G.S. 163-123.
- (6) Instructions to voters, unless the State Board of Elections allows instructions to be placed elsewhere than on the official ballot.
- (7) The printed title and facsimile signature of the chair of the county board of elections."

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

In the General Assembly read three times and ratified this the 9<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 12:32 p.m. on the 19<sup>th</sup> day of June, 2003.

## H.B. 665

## Session Law 2003-210

### AN ACT TO MODIFY THE DUTIES OF THE BOARD OF SCIENCE AND TECHNOLOGY.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 143B-472.80 reads as rewritten:

"§ **143B-472.80. North Carolina Board of Science and Technology; creation; powers and duties.**

The North Carolina Board of Science and Technology of the Department of Commerce is created. The Board has the following powers and duties:

- (1) To identify, and to support and foster the identification of, important research needs of both public and private agencies, institutions and organizations in North Carolina that relate to the State's economic growth and development;
- (2) To make recommendations concerning policies, procedures, organizational structures and financial requirements that will promote effective use of scientific and technological resources in fulfilling the research needs identified and that will promote the economic growth and development of North Carolina;
- (3) To allocate funds available to the Board to support research projects, to purchase research equipment and supplies, to construct or modify research facilities, to employ consultants, and for other purposes necessary or appropriate in discharging the duties of the Board;



- (4) To advise and make recommendations to the Governor, the General Assembly, the Secretary of Commerce, and the Economic Development Board on the role of science and technology in the economic growth and development of North Carolina."

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

In the General Assembly read three times and ratified this the 9<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 12:32 p.m. on the 19<sup>th</sup> day of June, 2003.

**H.B. 483**

**Session Law 2003-211**

AN ACT PROVIDING FOR THE ABROGATION OF OFFENSIVE PLACE-NAMES THROUGHOUT THE STATE.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Article 4 of Chapter 147 of the General Statutes is amended by adding a new section to read:

"**§ 147-54.7. Abrogation of offensive geographical place-names.**

(a) The General Assembly finds that certain geographical place-names are offensive or insulting to the State's people, history, and heritage. These place-names should be replaced by names that reflect the State's people, history, and heritage without resorting to offensive stereotypes, names, words, or phrases.

(b) The Secretary of State, in consultation with the North Carolina Geographic Information Coordinating Council, and pursuant to federal guidelines, shall adopt procedures to effect the change of geographical place-names that are offensive or insulting. The procedures shall include a notification to the governing body of the county where the offensive or insulting place-name is deemed to exist that the Council intends to make application to change the name. The county governing body shall have 90 days in which to respond to the Council, and no action to affect a change in the place-name shall be undertaken by the Council until it has reviewed the county's response, or the expiration of the 90-day period, whichever comes first.

(c) The procedures adopted by the Secretary pursuant to this section shall include the consideration of resolutions, if any, passed by the governing body of any county regarding the changing of a geographical place-name within the county."

**SECTION 2.** The geographical place or location names in the State that contain the word "Nigger" are deemed to be an offensive and insulting place or location name. The North Carolina Geographic Coordinating Council shall notify the governing body of the county where there are geographic places or locations which contain the foregoing term that (i) application will be made to the U.S. Board of Geographic Names to change the offensive name, and (ii) that the county governing body has 90 days in which to forward a suggested replacement name to the Council. If the county's recommended replacement name is not deemed to be offensive or insulting by vote of the Council, then the Council shall make application to the U.S. Board of Geographic Names to change the offensive place-name to the name provided by the county governing body. If the county governing body fails to provide a replacement name within the specified time, or the provided name is deemed to be offensive or insulting by vote of the Council, then the Council shall make the application to change the offensive place-name to a name chosen within its discretion.

**SECTION 3.** This act shall not be construed to apply to a geographic place-name which is that of a historic person or event or to a nonpejorative place-name.

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

In the General Assembly read three times and ratified this the 11<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 12:44 p.m. on the 19<sup>th</sup> day of June, 2003.

**H.B. 276****Session Law 2003-212**

AN ACT TO MAKE SUBSTANTIVE AND TECHNICAL AMENDMENTS IN THE LAWS CONCERNING INSURANCE COMPANY SOLVENCY AND TO PROHIBIT OFFICERS AND EMPLOYEES OF THE STATE AND ITS POLITICAL SUBDIVISIONS FROM REQUIRING CONSTRUCTION CONTRACT BIDDERS TO OBTAIN SURETY BONDS FROM SURETIES OR PRODUCERS DESIGNATED BY THE OFFICERS AND EMPLOYEES.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 58-5-5 reads as rewritten:

"§ 58-5-5. **Amount of deposits required of foreign or alien fire and/or marine insurance companies.**

Unless otherwise provided in this Article, every fire, marine, or fire and marine insurance company chartered by any other state or foreign government shall make and maintain deposits of securities with the Commissioner in the amount of ~~twenty-five thousand dollars (\$25,000)~~ one hundred thousand dollars (\$100,000) market value."

**SECTION 2.** G.S. 58-5-10 reads as rewritten:

"§ 58-5-10. **Amount of deposits required of foreign or alien fidelity, surety and casualty insurance companies.**

Unless otherwise provided in this Article, every fidelity, surety or casualty insurance company chartered by any other state or foreign government shall make and maintain deposits of securities with the Commissioner in the amount of ~~fifty thousand dollars (\$50,000)~~ two hundred thousand dollars (\$200,000) market value."

**SECTION 3.** G.S. 58-5-50 reads as rewritten:

"§ 58-5-50. **Deposits of foreign life insurance companies.**

In addition to other requirements of Articles 1 through 64 of this Chapter, all foreign life insurance companies shall deposit securities, as specified in G.S. 58-5-20, having a market value of ~~one hundred thousand dollars (\$100,000)~~ four hundred thousand dollars (\$400,000) as a prerequisite of doing business in this State. All foreign life insurance companies shall deposit an additional ~~one hundred thousand dollars (\$100,000)~~ two hundred thousand dollars (\$200,000) where such companies cannot show three years of net operational gains prior to admission. Foreign life insurance companies that are licensed on or before the effective date of this section shall have one year from that date to comply with this section."

**SECTION 4.** G.S. 58-7-162(2) reads as rewritten:

"(2) Investments, securities, properties, and loans acquired or held in accordance with this Chapter, ~~and in connection therewith the following items:~~

- a. ~~Interest due or accrued on any bond or evidence of indebtedness that is not in default.~~

- ~~b. Declared and unpaid dividends on stock and shares, unless that amount has otherwise been allowed as an asset.~~
- ~~e. Interest due or accrued upon a collateral loan in an amount not to exceed one year's interest thereon.~~
- ~~d. Interest due or accrued on deposits in solvent banks, savings and loan associations, and trust companies, and interest due or accrued on other assets, if the interest is, in the Commissioner's judgment, a collectible asset.~~
- ~~e. Interest due or accrued on a current mortgage loan, in an amount not exceeding in any event the amount, if any, of the excess of the value of the property less delinquent taxes thereon over the unpaid principal; but in no event shall interest accrued for a period in excess of 90 days be allowed as an asset.~~
- ~~f. Rent due or accrued on real property if the rent is not in arrears for more than three months, and rent more than three months in arrears if the payment of the rent is adequately secured by property held in the tenant's name and conveyed to the insurer as collateral and the underlying collateral is admissible under this Chapter.~~
- ~~g. The unaccrued portion of taxes paid before the due date on real property.~~

Chapter."

**SECTION 5.** G.S. 58-7-162(5) and G.S. 58-7-162(7) are repealed.

**SECTION 6.** G.S. 58-7-162(12) reads as rewritten:

"(12) Electronic and mechanical machines, including operating and system software constituting a management information system, ~~if the cost of the system is at least twenty five thousand dollars (\$25,000) but not more than two percent (2%) of total admitted assets; the cost shall be amortized in full over a period not to exceed seven calendar years.~~system."

**SECTION 7.** G.S. 58-7-163 reads as rewritten:

**"§ 58-7-163. Assets not allowed.**

In addition to assets impliedly excluded by the provisions of G.S. 58-7-162, the following expressly shall not be allowed as assets in any determination of the financial condition of an insurer:

- (1) ~~Goodwill, trade names, and other like intangible assets.~~
- (2) Advances (other than policy loans) to officers, directors, and controlling stockholders, whether secured or not, and advances to employees, agents, and other persons on personal security only.
- (3) Stock of the insurer or any material equity therein or loans secured thereby, or any material proportionate interest in the stock acquired or held through the ownership by the insurer of an interest in another firm, corporation, or business unit.
- (4) ~~Furniture, fixtures, other equipment, safes, vehicles, libraries, stationery, literature, and supplies, other than data processing and accounting systems authorized under G.S. 58-7-162(12), except in the case of title insurers the materials and plants which G.S. 58-7-182 expressly authorizes the insurer to invest in, and except, in the case of any insurer, any personal property that the insurer is permitted to hold~~

~~under this Chapter, or that is acquired through foreclosure of chattel mortgages acquired under G.S. 58-7-180, or that is reasonably necessary for the maintenance and operation of real estate that the insurer uses for a home office, branch office, and similar purposes.~~

- (5) The amount, if any, by which the aggregate book value of investments as carried in the ledger assets of the insurer exceeds the aggregate value of the investments as determined under this Chapter.
- (6) Bonds, notes, or other evidences of indebtedness that are secured by mortgages or deeds of trust that are in default, to the extent of the cost or carrying value that is in excess of the value as determined pursuant to other provisions of this Chapter.
- ~~(7) Prepaid and deferred expenses.~~
- (8) Certificates of ~~contribution~~ contribution, surplus notes, or other similar evidences of indebtedness. indebtedness, to the extent that admission of these investments results in the double counting of these investments in the reporting entity's balance sheet.
- (9) Any asset that is encumbered in any manner unless the asset is authorized under G.S. 58-7-187 or G.S. 58-7-162(13)."

**SECTION 8.** G.S. 58-7-192 reads as rewritten:

**"§ 58-7-192. Valuation of securities and investments.**

~~(a) All securities, investments, and evidences of debt, other than those for which valuation methodologies are specifically set forth in this Chapter, that are held by an insurer shall be valued at their market values, at their appraised values, or at prices determined by the insurer as representing their fair market values, subject to the Commissioner's approval.~~

~~(b) Preferred or guaranteed stocks or shares while paying full dividends may be carried at a fixed value in lieu of market value, in the Commissioner's discretion and in accordance with a method of valuation that the Commissioner approves.~~

~~(c) Stock of a subsidiary corporation of an insurer shall not be valued at an amount in excess of its net value as based upon those assets only of the subsidiary that would be eligible under this Chapter and G.S. 58-19-10 for investment of the funds of the insurer direct.~~

~~(d) No valuations under this section shall be greater than any applicable valuation or method contained in the latest edition of the NAIC publications entitled "Valuations of Securities" "Purposes and Procedures Manual of the NAIC Securities Valuation Office" or the "Accounting Practices and Procedures Manual", unless the Commissioner determines that another valuation method is appropriate when it results in a more conservative valuation.~~

~~(e) All bonds or fully secured indebtedness having a stated term and a rate of interest that are held by an insurer shall be valued in accordance with the procedures and instructions contained in the NAIC publication entitled "Valuations of Securities", unless the Commissioner determines that a more conservative valuation is appropriate."~~

**SECTION 9.** G.S. 58-7-193 reads as rewritten:

**"§ 58-7-193. Valuation of property.**

~~(a) Real property acquired pursuant to a mortgage loan or contract for sale shall be valued at the net realizable value, but in no event shall the property be valued at an amount greater than the unpaid principal of the defaulted loan or contract at the date of the acquisition and the cost of improvements thereafter made by the insurer and any~~

amounts thereafter paid by the insurer on assessments levied for improvements in connection with the property.

(b) ~~Other real property held by an insurer shall not be valued at an amount in excess of fair market value as determined by recent appraisal and as approved by the Commissioner. If valuation is based on an appraisal more than three years old, the Commissioner may call for and require a new appraisal in order to determine fair value.~~

(c) Personal property acquired pursuant to chattel mortgages made in accordance with G.S. 58-7-180 shall not be valued at an amount greater than the unpaid balance of principal on the defaulted loan at the date of acquisition, or the fair market value of the property, whichever amount is less.

(d) If the Commissioner and an insurer do not agree on the value of real or personal property of an insurer, in carrying out the Commissioner's responsibilities under this section, the Commissioner may retain the services of a qualified real or personal property appraiser. The insurer shall reimburse the Commissioner for the costs of the services of any appraiser incurred with respect to the Commissioner's responsibilities under this section."

**SECTION 10.** G.S. 58-7-195 is repealed.

**SECTION 11.** G.S. 58-7-179(d) reads as rewritten:

"(d) In the case of a purchase money mortgage given to secure the purchase price of real estate sold by the insurer, the amount lent or invested shall not exceed the unpaid part of the purchase price ~~and shall be valued in accordance with G.S. 58-7-195.~~ price."

**SECTION 12.** G.S. 58-23-26(c) reads as rewritten:

"(c) Each pool is subject to G.S. 58-2-131, 58-2-132, 58-2-133, 58-2-134, 58-2-150, 58-2-155, 58-2-165, 58-2-180, 58-2-185, 58-2-190, 58-2-200, 58-3-71, 58-3-75, 58-3-81, 58-3-105, 58-6-5, 58-7-21, 58-7-26, 58-7-30, 58-7-31, 58-7-50, 58-7-55, 58-7-140, 58-7-160, 58-7-162, 58-7-163, 58-7-165, 58-7-167, 58-7-168, 58-7-170, 58-7-172, 58-7-173, 58-7-175, 58-7-179, 58-7-180, 58-7-183, 58-7-185, 58-7-187, 58-7-188, 58-7-192, 58-7-193, ~~58-7-195,~~ 58-7-197, 58-7-200, and Articles 13, 19, and 34 of this Chapter. Annual financial statements required by G.S. 58-2-165 shall be filed by each pool within 60 days after the end of the pool's fiscal year, subject to extension by the Commissioner."

**SECTION 13.** G.S. 58-47-80 reads as rewritten:

"§ ~~58-47-80.~~ **Assets and invested assets.**

Funds shall be held and invested by the board under G.S. 58-7-160, 58-7-162, 58-7-163, 58-7-165, 58-7-167, 58-7-168, 58-7-170, 58-7-172, 58-7-173, 58-7-178, 58-7-179, 58-7-180, 58-7-183, 58-7-185, 58-7-187, 58-7-188, 58-7-192, 58-7-193, ~~58-7-195,~~ 58-7-197, 58-7-200, and 58-19-10."

**SECTION 14.** G.S. 58-8-15 reads as rewritten:

"§ ~~58-8-15.~~ **Directors in mutual companies.**

Every mutual insurance company shall elect by ballot a board of not less than seven directors, who shall manage and conduct its business and hold office for one year or for such term as the bylaws provide and until their successors are qualified. The directors need not be residents of this State or members of the company. In companies with a guaranty capital, no more than one-half one-half of the directors shall be ~~chosen~~ elected by ~~and from the stockholders.~~ holders of guaranty capital, except where guaranty capital holders are policyholders. Policyholders which are holders of guaranty capital shall be entitled to one vote for each policy that person holds and one vote for each unit of guaranty capital that person holds."

**SECTION 15.** G.S. 58-8-20 reads as rewritten:

"§ 58-8-20. Mutual companies with a guaranty capital.

(a) A mutual insurance company formed as provided in Articles 1 through 64 of this Chapter, in lieu of the contributed surplus required for the organization of mutual companies under the provisions of G.S. 58-7-75, or a mutual insurance company now existing, may, with the prior approval of the Commissioner, ~~establish~~tender a guaranty capital ~~offering~~ of not less than fifty thousand dollars (\$50,000), divided into ~~shares~~units of one hundred dollars (\$100.00) each, which shall be invested in the same manner as is provided in this Chapter for the investment of the capital stock of insurance companies.

(a1) Guaranty capital may be issued by an existing domestic mutual insurance company only under the following terms and conditions:

- (1) To aid and assist a financially troubled domestic mutual insurance company which otherwise faces rehabilitation or liquidation by this Department; or
- (2) For any other reason as presented in a petition to the Commissioner and which is found by the Commissioner to be reasonable, justifiable, and in the best interest of all the policyholders of the company.

Guaranty capital issued under subdivision (2) of this subsection shall require written notification of the action proposed by the board of directors of the company to be mailed to the policyholders of the company not less than 30 days before the meeting when the action may be taken. The written notification shall be advertised in two newspapers of general circulation, approved by the Commissioner, not less than three times a week for a period of not less than four weeks before the meeting. The written notification to policyholders shall include a proxy statement to allow policyholders to vote on the proposed action without personal attendance at the meeting, and the Commissioner shall approve both the written notification and the proxy statement. The proposed action shall be effected by a vote of two-thirds of the policyholders voting thereon in person or by proxy.

~~(b) The board of directors of a company may declare and pay dividends to the stockholders of the guaranty capital of a company, subject to the notification requirements of G.S. 58-19-25(d) and the prior approval requirements of G.S. 58-19-30(e).~~ distribute interest to the holders of guaranty capital in accordance with the guaranty capital filing approved by the Department.

~~(c) The guaranty~~ Guaranty capital shall be applied to the payment of losses only when the company has exhausted its cash in hand and the invested assets, exclusive of uncollected premiums, and when thus impaired, the directors may make good the whole or any part of it by assessments upon the contingent funds of the company at the date of such impairment. ~~In the event of a merger, demutualization, or other event where the entity ceases to exist, guaranty capital shall only be returned or repaid to the certificate holders to the extent that the guaranty capital had been contributed together with accrued income as specified in the certificate. Any amounts in excess shall be for the benefit of the policyholders.~~

~~(d) Shareholders and members of such companies are subject to the same provisions of law in respect to their right to vote as apply respectively to shareholders in stock companies and policyholders in mutual companies. Guaranty capital holders are entitled to one vote per unit of guaranty capital. Guaranty capital holders who are not policyholders are not entitled to participate in the policyholder votes prescribed under subdivision (a1)(2) and subsection (e) of this section.~~

~~(e) This guaranty~~ Guaranty capital may be reduced or retired by vote of the policyholders of the company and the assent of the Commissioner, if the net assets of

the company above its reserve and all other claims and obligations, exclusive of guaranty capital, for two years immediately preceding and including the date of its last annual statement, is not less than twenty-five percent (25%) of the guaranty capital. Due notice of such proposed action on the part of the company must be mailed to each policyholder of the company not less than 30 days before the meeting when the action may be taken, and must also be advertised in two papers of general circulation, approved by the Commissioner, not less than three times a week for a period of not less than four weeks before such meeting. ~~No insurance company with a guaranty capital which has ceased to do new business, shall divide to its stockholders any part of its assets or guaranty capital, except income from investments, until it has performed or canceled its policy obligations. In the event of a merger, demutualization, or other event where the entity ceases to exist, guaranty capital shall only be returned or repaid to the certificate holders to the extent that the guaranty capital had been contributed together with accrued income as specified in the certificate. Any amounts in excess shall be for the benefit of the policyholders.~~

(f) No insurance company with guaranty capital shall distribute to its holders of guaranty capital its assets, except as provided in the guaranty capital filing as approved by the Commissioner.

(g) In the event of a merger, demutualization, or other event where the entity ceases to exist, guaranty capital shall only be returned or repaid to the holders of guaranty capital to the extent that the guaranty capital has been contributed together with accrued interest as specified in the filing approved by the Commissioner."

**SECTION 16.** G.S. 58-8-50 reads as rewritten:

**"§ 58-8-50. Guaranty against assessments prohibited.**

If any director, officer, or agent of a mutual insurance company, either officially or privately, ~~shall give~~ gives a guaranty to a policyholder ~~thereof of the company~~ against an assessment to which ~~such that~~ policyholder would otherwise be liable, ~~he the~~ director, officer, or agent shall be punished by a fine not exceeding ~~one hundred dollars (\$100.00)~~ one thousand dollars (\$1,000) for each offense."

**SECTION 17.** G.S. 58-65-1 reads as rewritten:

**"§ 58-65-1. Regulation and definitions; application of other laws; profit and foreign corporations prohibited.**

(a) Any corporation organized under the general corporation laws of the State of North Carolina for the purpose of maintaining and operating a nonprofit hospital or medical or dental service plan whereby hospital care or medical or dental service may be provided in whole or in part by the corporation or by hospitals, physicians, or dentists participating in the plan, or plans, shall be governed by this Article and Article 66 of this Chapter and shall be exempt from all other provisions of the insurance laws of this State, unless otherwise provided.

The term "hospital service plan" as used in this Article ~~and Article 66 of this Chapter~~ includes the contracting for certain fees for, or furnishing of, hospital care, laboratory facilities, X-ray facilities, drugs, appliances, anesthesia, nursing care, operating and obstetrical equipment, accommodations or any other services authorized or permitted to be furnished by a hospital under the laws of the State of North Carolina and approved by the North Carolina Hospital Association or the American Medical Association.

The term "medical service plan" as used in this Article ~~and Article 66 of this Chapter~~ includes the contracting for the payment of fees toward, or furnishing of, medical, obstetrical, surgical or any other professional services authorized or permitted to be furnished by a duly licensed physician or other provider listed in G.S. 58-50-30. The

term "medical services plan" also includes the contracting for the payment of fees toward, or furnishing of, professional medical services authorized or permitted to be furnished by a duly licensed provider of health services licensed under Chapter 90 of the General Statutes.

The term "dental service plan" as used in this Article ~~and Article 66 of this Chapter~~ includes contracting for the payment ~~2of~~ of fees toward, or furnishing of dental or any other professional services authorized or permitted to be furnished by a duly licensed dentist.

The term "hospital service corporation" as used in this Article ~~and Article 66 of this Chapter~~ is intended to mean any nonprofit corporation operating a hospital or medical or dental service plan, as defined in this section. Any corporation organized and subject to the provisions of this ~~Article and Article 66 of this Chapter~~, Article, the certificate of incorporation of which authorizes the operation of either a hospital or medical or dental service plan, or any or all of them, may, with the approval of the ~~Commissioner of Insurance~~, Commissioner, issue subscribers' contracts or certificates approved by the Commissioner of Insurance, for the payment of either hospital or medical or dental fees, or the furnishing of such services, or any or all of them, and may enter into contracts with hospitals for physicians or dentists, or any or all of them, for the furnishing of fees or services respectively under a hospital or medical or dental service plan, or any or all of them.

The term "preferred provider" as used in this Article ~~and Article 66 of this Chapter~~ with respect to contracts, organizations, policies or otherwise means a health care service provider who has agreed to accept, from a corporation organized for the purposes authorized by this Article ~~and Article 66 of this Chapter~~ or other applicable law, special reimbursement terms in exchange for providing services to beneficiaries of a plan administered pursuant to this ~~Article and Article 66 of this Chapter~~. Article. Except to the extent prohibited either by G.S. 58-65-140 or by rules ~~promulgated adopted~~ by the ~~Department of Insurance Commissioner~~ not inconsistent with this ~~Article and Article 66 of this Chapter~~, Article, the contractual terms and conditions for special reimbursement shall be those which the corporation and preferred provider find to be mutually agreeable.

~~licensed licensed~~

(b) through (c) Repealed by Session Laws 2001-297.

~~licensed licensed Social Work and Licensure~~

(d) No foreign or alien hospital or medical or dental service corporation as herein defined shall be authorized to do business in this State."

**SECTION 18.** G.S. 58-65-95(a) reads as rewritten:

"(a) ~~No corporation Corporations~~ subject to this Article shall invest in ~~any securities other than securities~~ or hold only those assets permitted by Article 7 of this Chapter for ~~the investment of assets of~~ life and health insurance companies."

**SECTION 19.** G.S. 58-67-5(i) reads as rewritten:

"(i) "Net worth" means the excess of total assets over the total liabilities and may include borrowed funds that are repayable only from the net earned income of the health maintenance organization and repayable only with the advance permission of the Commissioner. For the purposes of this subsection, "assets" means (i) tangible assets and (ii) other investments permitted under ~~G.S. 58-67-60; provided, however, that the depreciated cost of office furniture and equipment in the principal office shall not exceed ten percent (10%) of a health maintenance organization's net worth.~~ G.S. 58-67-60."



**SECTION 20.** G.S. 58-67-40 is repealed.

**SECTION 21.** G.S. 58-67-110 reads as rewritten:

"§ 58-67-110. **Protection against insolvency.**

(a) The Commissioner shall require deposits in accordance with the provisions of G.S. 58-67-25.

(b) Each full service ~~medical~~ health maintenance organization shall maintain a minimum net worth of ~~not less than one million dollars (\$1,000,000), which shall be increased by the amount of the contingency reserves calculated annually in accordance with the provisions of G.S. 58-67-40. The net worth calculation shall be computed in accordance with statutory accounting principles generally recognized in the regulation of health maintenance organizations and the Commissioner may promulgate such regulations as he deems appropriate to carry out the provisions of this section. If a health maintenance organization fails to comply with the net worth requirement of this subsection or subsections (c) or (d) of this section, the Commissioner is authorized to take appropriate action to assure that the continued operation of the health maintenance organization will not be hazardous to its enrollees.~~ equal to the greater of one million dollars (\$1,000,000) or the amount required pursuant to the risk-based capital provisions of Article 12 of this Chapter. Each single service health maintenance organization shall maintain a minimum net worth equal to the greater of fifty thousand dollars (\$50,000) or that amount required pursuant to the risk-based capital provisions of Article 12 of this Chapter.

(c) ~~The minimum net worth for a health maintenance organization authorized to operate on July 17, 1987, and having a net worth of less than one million dollars (\$1,000,000) shall be as follows:~~

- ~~(1) \$150,000 by December 31, 1987~~
- ~~(2) \$300,000 by December 31, 1988~~
- ~~(3) \$450,000 by December 31, 1989~~
- ~~(4) \$750,000 by December 31, 1990~~
- ~~(5) \$1,000,000 by December 31, 1991~~

~~The net worth amounts required by this section shall be in addition to the contingency reserves required by G.S. 58-67-40.~~

(d) ~~Notwithstanding any other provision of this Article, a health maintenance organization authorized to offer only a single health care service plan providing a single health care service must have a minimum net worth of fifty thousand dollars (\$50,000). The minimum net worth for such plan authorized to operate on July 17, 1987, and having a net worth of less than fifty thousand dollars (\$50,000) shall be as follows:~~

- ~~(1) Twenty five thousand dollars (\$25,000) by December 31, 1987; and~~
- ~~(2) Fifty thousand dollars (\$50,000) by December 31, 1988;~~

~~The net worth amounts required by this section shall be in addition to the contingency reserves required by G.S. 58-67-40.~~

(e) Every full service medical health maintenance organization shall have and maintain at all times an adequate plan for protection against insolvency acceptable to the Commissioner. In determining the adequacy of such a plan, the Commissioner may consider:

- (1) A reinsurance agreement preapproved by the Commissioner covering excess loss, stop loss, or catastrophes. The agreement must provide that the Commissioner will be notified no less than 60 days prior to cancellation or reduction of coverage.

- (2) A conversion policy or policies that will be offered by an insurer to the enrollees in the event of the health maintenance organization's insolvency.
- (3) Any other arrangements offering protection against insolvency that the Commissioner may require."

**SECTION 22.** G.S. 58-67-140(a)(3) reads as rewritten:

"(3) ~~No longer maintains the financial reserve specified in G.S. 58-67-40 or is~~ Is no longer financially responsible and may reasonably be expected to be unable to meet its obligations to enrollees or prospective enrollees."

**SECTION 23.** G.S. 58-67-140(a)(7) reads as rewritten:

"(7) Has knowingly published or made to the Department or to the public any false statement or report, including any report or any data that serves as the basis for any report, required to be submitted under ~~G.S. 58-3-210.~~G.S. 58-3-191."

**SECTION 24.** G.S. 58-47-65(a) reads as rewritten:

"(a) No group shall self-insure its workers' compensation liabilities under the Act unless it is licensed by the Commissioner under this Part. This subsection does not apply to a group that was organized and approved under the North Carolina law before July 1, 1995, and whose authority to self-insure its workers' compensation liabilities under the Act has not terminated after that date."

**SECTION 25.** G.S. 97-170(a) reads as rewritten:

"(a) No employer shall self-insure its workers' compensation liabilities under the Act unless it is licensed by the Commissioner under this Article. This subsection does not apply to an employer authorized to self-insure its workers' compensation liabilities under the Act prior to December 1, 1997, whose authority to self-insure its workers' compensation liabilities under the Act has not terminated after that date."

**SECTION 26.(a)** G.S. 58-3-100 reads as rewritten:

"§ 58-3-100. **Insurance company licensing provisions.**

(a) The Commissioner may, after notice and opportunity for a hearing, revoke, suspend, ~~restrict, or refuse to renew or restrict~~ the license of any insurer if:

- (1) The insurer fails or refuses to comply with any law, order or rule applicable to the insurer.
- (2) The insurer's financial condition is unsound, or its assets above its liabilities, exclusive of capital, are less than the amount of its capital or required minimum surplus.
- (3) The insurer has published or made to the Department or to the public any false statement or report.
- (4) The insurer or any of the insurer's officers, directors, employees, or other representatives refuse to submit to any examination authorized by law or refuse to perform any legal obligation in relation to an examination.
- (5) The insurer is found to make a practice of unduly engaging in litigation or of delaying the investigation of claims or the adjustment or payment of valid claims.

(b) Any suspension, revocation or refusal to renew suspension or revocation of an insurer's license under this section may also be made applicable to the license or registration of any individual regulated under this Chapter who is a party to any of the causes for licensing sanctions listed in subsection (a) of this section."

**SECTION 26.(b)** G.S. 58-4-15 reads as rewritten:

**"§ 58-4-15. Revocation or suspension of license.**

The Commissioner may ~~suspend, revoke, or refuse to renew~~ suspend or revoke the license of any insurer failing to file its financial statement when due or within any extension of time that the Commissioner, for good cause, may have granted."

**SECTION 26.(c)** G.S. 58-6-7 reads as rewritten:

**"§ 58-6-7. Licenses; perpetual licensing; annual license continuation ~~Annual license fees for insurance companies.~~**

(a) In order to do business in this State, an insurance company shall apply for and obtain a license from the ~~Commissioner by March 1 of each year.~~ Commissioner. The license shall ~~be perpetual and become effective the following July 1 and shall remain in effect for one year.~~ shall continue in full force and effect, subject to timely payment of the annual license continuation fee in accordance with this Chapter and subject to any other applicable provision of the insurance laws of this State. Except as provided in subsection (b) of this section, the insurance company shall pay ~~an annual~~ a fee for each year the license is in effect, as follows:

For each domestic farmer's mutual assessment fire insurance company .....	\$ 25.00
For each fraternal order.....	100.00
For each of all other insurance companies, except mutual burial associations taxed under G.S. 105-121.1 .....	1,000.00

The fees levied in this subsection are in addition to those specified in G.S. 58-6-5.

(b) When the paid-in capital stock or surplus, or both, of an insurance company, other than a farmer's mutual assessment company or a fraternal order, does not exceed one hundred thousand dollars (\$100,000), the fee levied in this section shall be one-half the amount specified.

(c) Upon payment of the fee specified above and the fees and taxes elsewhere specified each insurance company, exchange, bureau, or agency, shall be entitled to do the types of business specified in Chapter 58, of the General Statutes of North Carolina as amended, to the extent authorized therein, except that: Insurance companies authorized to do either the types of business specified for (i) life insurance companies, or (ii) for fire and marine companies, or (iii) for casualty and fidelity and surety companies, in G.S. 58-7-75, which shall also do the types of business authorized in one or both of the other of the above classifications shall in addition to the fees above specified pay one hundred dollars (\$100.00) for each such additional classification of business done. All fees and charges collected by the Commissioner under this Chapter are nonrefundable.

(d) Any rating bureau established by action of the General Assembly of North Carolina shall be exempt from the fees in this section."

**SECTION 26.(d)** G.S. 58-6-15 reads as rewritten:

**"§ 58-6-15. Licenses ~~run from July 1.~~ Annual license continuation fee definition; requirements.**

~~The license required of insurance companies shall continue, continue for the next ensuing 12 months after July 1 of each year, unless revoked as provided in Articles 1 through 64 of this Chapter. Application for renewal of the company license~~ For purposes of this Chapter only, "annual license continuation fee means" the fee specified in G.S. 58-6-7 submitted to the Commissioner for each year the license is in effect after the company's year of initial licensing. The annual license continuation fee must be submitted on or before the first day of March on a form to be supplied by the Commissioner. ~~Commissioner each year the license is to remain in effect. If the~~

Commissioner is satisfied. Upon satisfying himself that the company has met all requirements of law and appears to be financially solvent he shall forward the renewal license to the company. Any company which does not qualify for a renewal license before July 1 shall cease to do business in the State of North Carolina as of July 1, unless its license is sooner revoked by the Commissioner. solvent, the Commissioner shall not revoke or suspend the license of the company, and the company shall be authorized to do business in this State, subject to all other applicable provisions of the insurance laws of this State. Nothing contained in this section shall be interpreted as applying to licenses issued to individual representatives of insurance companies."

**SECTION 26.(e)** G.S. 58-6-30 reads as rewritten:

"§ 58-15-30. **License, surplus, and deposit requirements.**

(a) No reciprocal shall engage in any insurance transaction in this State until it has obtained a license to do so in accordance with the applicable provisions of Articles 1 through 64 of this Chapter. Such~~The~~ license shall continue in full force and effect, subject to timely payment of an annual license continuation fee in accordance with G.S. 58-6-7 and subject to any other applicable provisions of the insurance laws of this State, expire on the last day of June of each year.

(b) No domestic or foreign reciprocal shall be licensed in this State unless it has a surplus to policyholders of at least eight hundred thousand dollars (\$800,000); and no alien reciprocal shall be licensed unless it has a trusted surplus of at least eight hundred thousand dollars (\$800,000).

(c) Each domestic, foreign, or alien reciprocal licensed in this State must maintain a minimum deposit with the Commissioner of at least one hundred thousand dollars (\$100,000) in cash or in value of securities of the kind specified in G.S. 58-5-15, which shall be subject to the same conditions as contained in Article 5 of this Chapter."

**SECTION 26.(f)** G.S. 58-19-65 reads as rewritten:

"§ 58-19-65. ~~Revocation, suspension, or nonrenewal~~ **Revocation or suspension of insurer's license.**

Whenever it appears to the Commissioner that any person has committed a violation of this Article that makes the continued operation of an insurer contrary to the interests of policyholders or the public, the Commissioner may, after giving notice and an opportunity to be heard, ~~suspend, revoke, or refuse to renew~~ suspend or revoke such insurer's license to do business in this State for such period as he finds is required for the protection of policyholders or the public. Any such determination shall be accompanied by specific findings of fact and conclusions of law."

**SECTION 26.(g)** G.S. 58-24-130 reads as rewritten:

"§ 58-24-130. ~~Annual~~ **Perpetual license.**

~~Societies which are now authorized to transact business in this State may continue such business until the 30th day of June next succeeding January 1, 1988. The authority of such societies and all societies hereafter licensed, may thereafter be renewed annually, but in all cases to terminate on the 30th day of the succeeding June. However, a license so issued~~ Subject to timely payment of the annual license continuation fee and subject to any other applicable provisions of the insurance laws of this State, a license, other than a preliminary license, to a fraternal benefit society under this Article shall continue in full force and effect until the new license be issued or specifically refused. effect. For each such license or renewal the society shall pay the Commissioner the fee specified in G.S. 58-6-5. The society shall pay the Commissioner, as an annual license continuation fee and a condition of the continuation of the license, the fee specified in G.S. 58-6-7 on or before the first day of March on a form to be supplied by the

Commissioner. A duly certified copy or duplicate of such the license shall be prima facie evidence that the licensee is a fraternal benefit society within the meaning of Articles 1 through 64 of this Chapter."

**SECTION 26.(h)** G.S. 58-26-10 reads as rewritten:

**"§ 58-26-10. Financial statements and licenses required.**

Title insurance companies are subject to G.S. 58-2-131, 58-2-132, 58-2-133, 58-2-134, 58-2-165, 58-2-180, and 58-6-5. The Commissioner may require title insurance companies to separately report their experience in insuring titles and in insuring closing services. The license to do business in this State issued to a title insurance company shall continue in full force and effect, subject to timely payment of the annual license continuation fee in accordance with G.S. 58-6-7 and subject to any other applicable provisions of the insurance laws of this State. The Commissioner shall annually license ~~such companies and their agents.~~ the agents of title insurance companies."

**SECTION 26.(i)** G.S. 58-30-62 reads as rewritten:

**"§ 58-30-62. Administrative supervision of insurers.**

(a) As used in this section, an insurer has "exceeded its powers" when it: has refused to permit examination of its books, papers, accounts, records or affairs by the Commissioner; has in violation of G.S. 58-7-50 removed from this State books, papers, accounts or records necessary for an examination of the insurer; has failed to comply promptly with applicable financial reporting statutes or rules and related Department requests; continues to transact the business of insurance after its license has been ~~revoked, suspended, or not renewed~~ revoked or suspended by the Commissioner; by contract or otherwise, has unlawfully, or has in violation of an order of the Commissioner, or has without first having obtained any legally required written approval of the Commissioner, totally reinsured its entire outstanding business or merged or consolidated substantially its entire property or business with another insurer; has engaged in any transaction in which it is not authorized to engage under the laws of this State; has not complied with G.S. 58-7-73; or has refused to comply with a lawful order of the Commissioner. As used in this section, "Commissioner" includes an authorized representative or designee of the Commissioner."

**SECTION 26.(j)** G.S. 58-65-55 reads as rewritten:

**"§ 58-65-55. Issuance of ~~certificate~~, and continuation of license.**

(a) Before issuing or continuing any such license or certificate the Commissioner may make such an examination or investigation as the Commissioner deems expedient. The Commissioner shall issue a ~~certificate of authority or license~~ upon the payment of ~~an annual~~ a fee of one thousand dollars (\$1,000) and upon being satisfied on the following points:

- (1) The applicant is established as a bona fide nonprofit hospital service corporation as defined by this Article and Article 66 of this Chapter.
- (2) The rates charged and benefits to be provided are fair and reasonable.
- (3) The amounts provided as working capital of the corporation are repayable only out of earned income in excess of amounts paid and payable for operating expenses and hospital and medical and/or dental expenses and such reserve as the Department deems adequate, as provided hereinafter.

- (4) That the amount of money actually available for working capital be sufficient to carry all acquisition costs and operating expenses for a reasonable period of time from the date of the issuance of the certificate.

(b) The license shall continue in full force and effect, subject to payment of an annual license continuation fee of one thousand dollars (\$1,000), subject to all other provisions of subsection (a) of this section and subject to any other applicable provisions of the insurance laws of this State."

**SECTION 26.(k)** G.S. 58-65-125 reads as rewritten:

"§ 58-65-125. ~~Revocation, suspension, and refusal to renew~~ **Revocation and suspension of license; unfair trade practices.**

(a) The Commissioner may ~~revoke, suspend, or refuse to renew~~ revoke or suspend the license of any service corporation if:

- (1) The service corporation fails or refuses to comply with any law, order, or rule applicable to the service corporation.
- (2) The service corporation's financial condition is unsound.
- (3) The service corporation has published or made to the Department or to the public any false statement or report.
- (4) The service corporation refuses to submit to any examination authorized by law.
- (5) The service corporation is found to make a practice of unduly engaging in litigation or of delaying the investigation of claims or the adjustment or payment of valid claims.

(b) Any ~~suspension, revocation, or refusal to renew~~ suspension or revocation of a service corporation's license under this section may also be made applicable to the license or registration of any natural person regulated under this Chapter who is a party to any of the causes for licensing sanctions listed in subsection (a) of this section.

(c) Article 63 of this Chapter applies to service corporations and their agents and representatives."

**SECTION 26.(l)** G.S. 58-67-140 reads as rewritten:

"§ 58-67-140. **Suspension or revocation of license.**

(a) The Commissioner may ~~suspend, revoke, or refuse to renew~~ suspend or revoke an HMO license if the Commissioner finds that the HMO:

- (1) Is operating significantly in contravention of its basic organizational document, or in a manner contrary to that described in and reasonably inferred from any other information submitted under G.S. 58-67-10, unless amendments to such submissions have been filed with and approved by the Commissioner.
- (2) Issues evidences of coverage or uses a schedule of premiums for health care services that do not comply with G.S. 58-67-50.
- (3) No longer maintains the financial reserve specified in G.S. 58-67-40 or is no longer financially responsible and may reasonably be expected to be unable to meet its obligations to enrollees or prospective enrollees.
- (4) Has itself or through any person on its behalf advertised or merchandised its services in an untrue, misrepresentative, misleading, deceptive or unfair manner.
- (5) Is operating in a manner that would be hazardous to its enrollees.

- (6) Knowingly or repeatedly fails or refuses to comply with any law or rule applicable to the HMO or with any order issued by the Commissioner after notice and opportunity for a hearing.
- (7) Has knowingly published or made to the Department or to the public any false statement or report, including any report or any data that serves as the basis for any report, required to be submitted under G.S. 58-3-210."

**SECTION 26.(m)** G.S. 58-67-160 reads as rewritten:

"§ 58-67-160. Fees.

Every health maintenance organization subject to this Article shall pay to the Commissioner a fee of two hundred fifty dollars (\$250.00) for filing an application for a license and ~~a~~ an annual license continuation fee of one thousand dollars (\$1,000) for each ~~license renewal~~ license. The license shall continue in full force and effect, subject to timely payment of the annual license continuation fee in accordance with G.S. 58-6-7 and subject to any other applicable provisions of the insurance laws of this State."

**SECTION 26.(n)** G.S. 58-67-20 reads as rewritten:

"§ 58-67-20. Issuance of certificate, and continuation of license.

(a) Before issuing or continuing any such ~~certificate, license~~, the Commissioner of Insurance may make such an examination or investigation as he deems expedient. The Commissioner of Insurance shall issue a ~~certificate of authority~~ license upon the payment of the application fee prescribed in G.S. 58-67-160 and upon being satisfied on the following points:

- (1) The applicant is established as a bona fide health maintenance organization as defined by this Article;
- (2) The rates charged and benefits to be provided are fair and reasonable;
- (3) The amounts provided as working capital are repayable only out of earned income in excess of amounts paid and payable for operating expenses and expenses of providing services and such reserve as the Department of Insurance deems adequate, as provided hereinafter;
- (4) That the amount of money actually available for working capital be sufficient to carry all acquisition costs and operating expenses for a reasonable period of time from the date of the issuance of the ~~certificate~~ license and that the health maintenance organization is financially responsible and may reasonably be expected to meet its obligations to enrollees and prospective enrollees. Such working capital shall initially be a minimum of one million five hundred thousand dollars (\$1,500,000) for any full service medical health maintenance organization. Initial working capital for a single service health maintenance organization shall be a minimum of one hundred thousand dollars (\$100,000) or such higher amount as the Commissioner shall determine to be adequate.

(b) In making the determinations required under this section, the Commissioner shall consider:

- (1) The financial soundness of the health care plan's arrangements for health care services and the schedule of premiums used in connection therewith;
- (2) The adequacy of working capital;
- (3) Any agreement with an insurer, a hospital or medical service corporation, a government, or any other organization for insuring the

payment of the cost of health care services or the provision for automatic applicability of alternative coverage in the event of discontinuance of the plan;

- (4) Any agreement with providers for the provision of health care services; and
- (5) Any firm commitment of federal funds to the health maintenance organization in the form of a grant, even though such funds have not been paid to the health maintenance organization, provided that the health maintenance organization certifies to the Commissioner that such funds have been committed, that such funds are to be paid to the health maintenance organization with a current fiscal year and that such funds may be used directly for operating purposes and for the benefit of enrollees of the health maintenance organization.

(c) ~~A certificate of authority license~~ shall be denied only after compliance with the requirements of G.S. 58-67-155."

**SECTION 27.** Article 31 of Chapter 58 of the General Statutes is amended by adding a new section to read:

**"§ 58-31-66. Public construction contract surety bonds.**

(a) Neither the State nor any county, city, or other political subdivision of the State, or any officer, employee, or other person acting on behalf of any such entity shall, with respect to any public building or construction contract, require any contractor, bidder, or proposer to procure a bid bond, payment bond, or performance bond from a particular surety, agent, producer, or broker.

(b) Nothing in this section prohibits an officer or employee acting on behalf of the State or a county, city, or other political subdivision of the State from:

- (1) Approving the form, sufficiency, or manner of execution of the surety bonds furnished by the surety selected by the bidder to underwrite the bonds.
- (2) Disapproving, on a reasonable, nondiscriminatory basis, the surety selected by the bidder to underwrite the bonds because of the financial condition of the surety.

(c) A violation of this section renders the public building or construction contract void ab initio."

**SECTION 28.** Sections 26(a) through (n) become effective January 1, 2004, and apply to all company licenses issued or otherwise eligible for renewal or continuation after that date. The remainder of this act becomes effective October 1, 2003.

In the General Assembly read three times and ratified this the 9<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 12:33 p.m. on the 19<sup>th</sup> day of June, 2003.



*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 116-44.5(2) reads as rewritten:

"§ 116-44.5. **Special provisions applicable to identified constituent institutions of the University of North Carolina.**

In addition to the powers granted by G.S. 116-44.4, the board of trustees of each of the constituent institutions enumerated hereinafter shall have the additional powers prescribed:

- ...
- (2) The Board of Trustees of Appalachian State University may by ordinance prohibit, regulate, and limit the parking of motor vehicles on those portions of the following public streets in the Town of Boone where parking is not prohibited by an ordinance of the Town of Boone:
- a. ~~Faculty~~Rivers Street, between U.S. 221-U.S. 321 (Hardin Street) and Water Street;
  - b. Stadium Drive, between ~~Faculty~~Rivers Street and ~~Fernelift~~Hemlock Drive;
  - c. College Street, ~~between U.S. 421-U.S. 321 (King Street) and Locust Street;~~to the extent that it is bounded on both sides by the university campus;
  - d. Appalachian Street, between Locust Street and Howard Street;
  - e. Brown Street, between Locust Street and Howard ~~Street~~Street;
  - f. Hill Street, only on the half of Hill Street bounded by the university campus;
  - g. Stansberry Circle, from Holmes Drive to the end of Stansberry Circle;
  - h. Locust Street, from U.S. 221-U.S. 321 (Hardin Street) to the end of Locust Street; and
  - i. Dale Street, from State Farm Road to the end of Dale Street."

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

In the General Assembly read three times and ratified this the 9<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 12:34 p.m. on the 19<sup>th</sup> day of June, 2003.

**H.B. 1024**

**Session Law 2003-214**

AN ACT ADOPTING THE NATIONAL CRIME PREVENTION AND PRIVACY COMPACT FOR NORTH CAROLINA.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Article 4 of Chapter 114 of the General Statutes is amended by:

- (1) Designating G.S. 114-12 through G.S. 114-19 as:  
"Part 1. General Powers and Duties of the State Bureau of Investigation.";
- (2) Designating G.S. 114-19.1 through G.S. 114-19.11 as:  
"Part 2. Criminal History Record Checks.";
- (3) Designating G.S. 114-20 through G.S. 114-21 as:  
"Part 3. Protection of Public Officials.";

(4) Recodifying G.S. 114-21 as G.S. 114-12.1.

**SECTION 2.** Part 2 of Article 4 of Chapter 114 of the General Statutes is amended by adding the following new section to read:

**"§ 114-19.50. The National Crime Prevention and Privacy Compact.**

The National Crime Prevention and Privacy Compact is enacted into law and entered into with all jurisdictions legally joining in the compact in the form substantially as set forth in this section, as follows:

Preamble.

Whereas, it is in the interest of the State to facilitate the dissemination of criminal history records from other states for use in North Carolina as authorized by State law; and

Whereas, the National Crime Prevention and Privacy Compact creates a legal framework for the cooperative exchange of criminal history records for noncriminal justice purposes; and

Whereas, the compact provides for the organization of an electronic information-sharing system among the federal government and the states to exchange criminal history records for noncriminal justice purposes authorized by federal or state law, such as background checks for governmental licensing and employment; and

Whereas, under the compact, the FBI and the party states agree to maintain detailed databases of their respective criminal history records, including arrests and dispositions, and to make them available to the federal government and party states for authorized purposes; and

Whereas, the FBI shall manage the federal data facilities that provide a significant part of the infrastructure for the system; and

Whereas, entering into the compact would facilitate the interstate and federal-state exchange of criminal history information to streamline the processing of background checks for noncriminal justice purposes; and

Whereas, release and use of information obtained through the system for noncriminal justice purposes would be governed by the laws of the receiving state; and

Whereas, entering into the compact will provide a mechanism for establishing and enforcing uniform standards for record accuracy and for the confidentiality and privacy interests of record subjects.

Article I.

Definitions.

As used in this compact, the following definitions apply:

- (1) "Attorney General" means the Attorney General of the United States.
- (2) "Compact officer" means:
  - a. With respect to the federal government, an official so designated by the director of the FBI; and
  - b. With respect to a party state, the chief administrator of the state's criminal history record repository or a designee of the chief administrator who is a regular, full-time employee of the repository.
- (3) "Council" means the compact council established under Article VI.
- (4) "Criminal history record repository" means the State Bureau of Investigation's Division of Criminal Information.
- (5) "Criminal history records" means information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, or other formal

- criminal charges and any disposition arising therefrom, including acquittal, sentencing, correctional supervision, or release. The term does not include identification information such as fingerprint records if the information does not indicate involvement of the individual with the criminal justice system.
- (6) "Criminal justice" includes activities relating to the detection, apprehension, detention, pretrial release, posttrial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. The administration of criminal justice includes criminal identification activities and the collection, storage, and dissemination of criminal history records.
- (7) "Criminal justice agency" means: (i) courts; and (ii) a governmental agency or any subunit of an agency that performs the administration of criminal justice pursuant to a statute or executive order and allocates a substantial part of its annual budget to the administration of criminal justice. The term includes federal and state inspector general offices.
- (8) "Criminal justice services" means services provided by the FBI to criminal justice agencies in response to a request for information about a particular individual or as an update to information previously provided for criminal justice purposes.
- (9) "Direct access" means access to the national identification index by computer terminal or other automated means not requiring the assistance of or intervention by any other party or agency.
- (10) "Executive order" means an order of the President of the United States or the chief executive officer of a state that has the force of law and that is promulgated in accordance with applicable law.
- (11) "FBI" means the Federal Bureau of Investigation.
- (12) "III system" means the interstate identification index system, which is the cooperative federal-state system for the exchange of criminal history records. The term includes the national identification index, the national fingerprint file, and, to the extent of their participation in the system, the criminal history record repositories of the states and the FBI.
- (13) "National fingerprint file" means a database of fingerprints or of other uniquely personal identifying information that relates to an arrested or charged individual and that is maintained by the FBI to provide positive identification of record subjects indexed in the III system.
- (14) "National identification index" means an index maintained by the FBI consisting of names, identifying numbers, and other descriptive information relating to record subjects about whom there are criminal history records in the III system.
- (15) "National indices" means the national identification index and the national fingerprint file.
- (16) "Noncriminal justice purposes" means uses of criminal history records for purposes authorized by federal or state law other than purposes relating to criminal justice activities, including employment suitability, licensing determinations, immigration and naturalization matters, and national security clearances.
- (17) "Nonparty state" means a state that has not ratified this compact.

- (18) "Party state" means a state that has ratified this compact.
- (19) "Positive identification" means a determination, based upon a comparison of fingerprints or other equally reliable biometric identification techniques, that the subject of a record search is the same person as the subject of a criminal history record or records indexed in the III system. Identifications based solely upon a comparison of subjects' names or other nonunique identification characteristics or numbers, or combinations thereof, does not constitute positive identification.
- (20) "Sealed record information" means:
- a. With respect to adults, that portion of a record that is:
    1. Not available for criminal justice uses;
    2. Not supported by fingerprints or other accepted means of positive identification; or
    3. Subject to restrictions on dissemination for noncriminal justice purposes pursuant to a court order related to a particular subject or pursuant to a federal or state statute that requires action on a sealing petition filed by a particular record subject; and
  - b. With respect to juveniles, whatever each state determines is a sealed record under its own law and procedure.
- (21) "State" means any state, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

Article II.

Purposes.

The purposes of this compact are to:

- (1) Provide a legal framework for the establishment of a cooperative federal-state system for the interstate and federal-state exchange of criminal history records for noncriminal justice uses;
- (2) Require the FBI to permit use of the national identification index and the national fingerprint file by each party state and to provide, in a timely fashion, federal and state criminal history records to requesting states, in accordance with the terms of this compact and with rules, procedures, and standards established by the council under Article VI;
- (3) Require party states to provide information and records for the national identification index and the national fingerprint file and to provide criminal history records, in a timely fashion, to criminal history record repositories of other states and the federal government for noncriminal justice purposes, in accordance with the terms of this compact and with rules, procedures, and standards established by the council under Article VI;
- (4) Provide for the establishment of a council to monitor III system operations and to prescribe system rules and procedures for the effective and proper operation of the III system for noncriminal justice purposes; and
- (5) Require the FBI and each party state to adhere to III system standards concerning record dissemination and use, response times, system security, data quality, and other duly established standards, including those that enhance the accuracy and privacy of such records.

Article III.Responsibilities of Compact Parties.

- (a) The director of the FBI shall:
- (1) Appoint an FBI compact officer who shall:
    - a. Administer this compact within the Department of Justice and among federal agencies and other agencies and organizations that submit search requests to the FBI pursuant to Article V(c);
    - b. Ensure that compact provisions and rules, procedures, and standards prescribed by the council under Article VI are complied with by the Department of Justice and federal agencies and other agencies and organizations referred to in sub-subdivision (a)(1)a. of this Article III; and
    - c. Regulate the use of records received by means of the III system from party states when such records are supplied by the FBI directly to other federal agencies;
  - (2) Provide to federal agencies and to state criminal history record repositories criminal history records maintained in its database for the noncriminal justice purposes described in Article IV, including:
    - a. Information from nonparty states; and
    - b. Information from party states that is available from the FBI through the III system but is not available from the party states through the III system;
  - (3) Provide a telecommunications network and maintain centralized facilities for the exchange of criminal history records for both criminal justice purposes and the noncriminal justice purposes described in Article IV and ensure that the exchange of records for criminal justice purposes has priority over exchange for noncriminal justice purposes; and
  - (4) Modify or enter into user agreements with nonparty state criminal history record repositories to require them to establish record request procedures conforming to those prescribed in Article V.
- (b) Each party state shall:
- (1) Appoint a compact officer who shall:
    - a. Administer this compact within that state;
    - b. Ensure that compact provisions and rules, procedures, and standards established by the council under Article VI are complied with in the state; and
    - c. Regulate the in-state use of records received by means of the III system from the FBI or from other party states;
  - (2) Establish and maintain a criminal history record repository, which shall provide:
    - a. Information and records for the national identification index and the national fingerprint file; and
    - b. The state's III system-indexed criminal history records for noncriminal justice purposes described in Article IV;
  - (3) Participate in the national fingerprint file; and
  - (4) Provide and maintain telecommunications links and related equipment necessary to support the criminal justice services set forth in this compact.

(c) In carrying out their responsibilities under this compact, the FBI and each party state shall comply with III system rules, procedures, and standards duly established by the council concerning record dissemination and use, response times, data quality, system security, accuracy, privacy protection, and other aspects of III system operation.

(d) Use of the III system for noncriminal justice purposes authorized in this compact must be managed so as not to diminish the level of services provided in support of criminal justice purposes. Administration of compact provisions may not reduce the level of service available to authorized noncriminal justice users on the effective date of this compact.

#### Article IV.

##### Authorized Record Disclosures.

(a) To the extent authorized by section 552a of Title 5, United States Code (commonly known as the Privacy Act of 1974), the FBI shall provide on request criminal history records, excluding sealed record information, to state criminal history record repositories for noncriminal justice purposes allowed by federal statute, federal executive order, or a state statute that has been approved by the Attorney General to ensure that the state statute explicitly authorizes national indices checks.

(b) The FBI, to the extent authorized by section 552a of Title 5, United States Code (commonly known as the Privacy Act of 1974), and state criminal history record repositories shall provide criminal history records, excluding sealed record information, to criminal justice agencies and other governmental or nongovernmental agencies for noncriminal justice purposes allowed by federal statute, federal executive order, or a state statute that has been approved by the Attorney General to ensure that the state statute explicitly authorizes national indices checks.

(c) Any record obtained under this compact may be used only for the official purposes for which the record was requested. Each compact officer shall establish procedures consistent with this compact and with rules, procedures, and standards established by the council under Article VI, which procedures shall protect the accuracy and privacy of the records and shall:

- (1) Ensure that records obtained under this compact are used only by authorized officials for authorized purposes;
- (2) Require that subsequent record checks are requested to obtain current information whenever a new need arises; and
- (3) Ensure that record entries that may not legally be used for a particular noncriminal justice purpose are deleted from the response and, if no information authorized for release remains, that an appropriate "no record" response is communicated to the requesting official.

#### Article V.

##### Record Request Procedures.

(a) Subject fingerprints or other approved forms of positive identification must be submitted with all requests for criminal history record checks for noncriminal justice purposes.

(b) Each request for a criminal history record check utilizing the national indices made under any approved state statute must be submitted through that state's criminal history record repository. A state criminal history record repository shall process an interstate request for noncriminal justice purposes through the national indices only if the request is transmitted through another state criminal history record repository or the FBI.

(c) Each request for criminal history record checks utilizing the national indices made under federal authority must be submitted through the FBI or, if the state criminal history record repository consents to process fingerprint submissions, through the criminal history record repository in the state in which the request originated. Direct access to the national identification index by entities other than the FBI and state criminal history record repositories may not be permitted for noncriminal justice purposes.

(d) A state criminal history record repository or the FBI:

(1) May charge a fee, in accordance with applicable law, for handling a request involving fingerprint processing for noncriminal justice purposes; and

(2) May not charge a fee for providing criminal history records in response to an electronic request for a record that does not involve a request to process fingerprints.

(e) (1) If a state criminal history record repository cannot positively identify the subject of a record request made for noncriminal justice purposes, the request, together with fingerprints or other approved identifying information, must be forwarded to the FBI for a search of the national indices.

(2) If, with respect to a request forwarded by a state criminal history record repository under subdivision (e)(1) of this Article V, the FBI positively identifies the subject as having a III system-indexed record or records:

a. The FBI shall so advise the state criminal history record repository; and

b. The state criminal history record repository is entitled to obtain the additional criminal history record information from the FBI or other state criminal history record repositories.

#### Article VI.

##### Establishment of Compact Council.

(a) There is established a council to be known as the compact council which has the authority to promulgate rules and procedures governing the use of the III system for noncriminal justice purposes, not to conflict with FBI administration of the III system for criminal justice purposes. The council shall:

(1) Continue in existence as long as this compact remains in effect;

(2) Be located, for administrative purposes, within the FBI; and

(3) Be organized and hold its first meeting as soon as practicable after the effective date of this compact.

(b) The council must be composed of 15 members, each of whom must be appointed by the Attorney General, as follows:

(1) Nine members, each of whom shall serve a two-year term, who must be selected from among the compact officers of party states based on the recommendation of the compact officers of all party states, except that in the absence of the requisite number of compact officers available to serve, the chief administrators of the criminal history record repositories of nonparty states must be eligible to serve on an interim basis;

(2) Two at-large members, nominated by the director of the FBI, each of whom shall serve a three-year term, of whom:

- a. One must be a representative of the criminal justice agencies of the federal government and may not be an employee of the FBI; and
  - b. One must be a representative of the noncriminal justice agencies of the federal government;
  - (3) Two at-large members, nominated by the chair of the council once the chair is elected pursuant to subsection (c)(3) of this Article VI, each of whom shall serve a three-year term, of whom:
    - a. One must be a representative of state or local criminal justice agencies; and
    - b. One must be a representative of state or local noncriminal justice agencies;
  - (4) One member who shall serve a three-year term and who shall simultaneously be a member of the FBI's advisory policy board on criminal justice information services, nominated by the membership of that policy board; and
  - (5) One member, nominated by the director of the FBI, who shall serve a three-year term and who must be an employee of the FBI.
- (c) From its membership, the council shall elect a chair and a vice-chair of the council. Both the chair and vice-chair of the council: (i) must be a compact officer, unless there is no compact officer on the council who is willing to serve, in which case the chair may be an at-large member and (ii) shall serve two-year terms and may be reelected to only one additional two-year term. The vice-chair of the council shall serve as the chair of the council in the absence of the chair.
- (d) The council shall meet at least once each year at the call of the chair. Each meeting of the council must be open to the public. The council shall provide prior public notice in the federal register of each meeting of the council, including the matters to be addressed at the meeting. A majority of the council or any committee of the council shall constitute a quorum of the council or of a committee, respectively, for the conduct of business. A lesser number may meet to hold hearings, take testimony, or conduct any business not requiring a vote.
- (e) The council shall make available for public inspection and copying at the council office within the FBI and shall publish in the federal register any rules, procedures, or standards established by the council.
- (f) The council may request from the FBI reports, studies, statistics, or other information or materials that the council determines to be necessary to enable the council to perform its duties under this compact. The FBI, to the extent authorized by law, may provide assistance or information upon a request.
- (g) The chair may establish committees as necessary to carry out this compact and may prescribe their membership, responsibilities, and duration.

#### Article VII.

##### Ratification of Compact.

This compact takes effect upon being entered into by two or more states as between those states and the federal government. When additional states subsequently enter into this compact, it becomes effective among those states and the federal government and each party state that has previously ratified it. When ratified, this compact has the full force and effect of law within the ratifying jurisdictions. The form of ratification must be in accordance with the laws of the executing state.



Article VIII.  
Miscellaneous Provisions.

(a) Administration of this compact may not interfere with the management and control of the director of the FBI over the FBI's collection and dissemination of criminal history records and the advisory function of the FBI's advisory policy board chartered under the Federal Advisory Committee Act (5 U.S.C. App.) for all purposes other than noncriminal justice.

(b) Nothing in this compact may require the FBI to obligate or expend funds beyond those appropriated to the FBI.

(c) Nothing in this compact may diminish or lessen the obligations, responsibilities, and authorities of any state, whether a party state or a nonparty state, or of any criminal history record repository or other subdivision or component thereof under the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1973 (Public Law 92-544) or regulations and guidelines promulgated thereunder, including the rules and procedures promulgated by the council under Article VI(a), regarding the use and dissemination of criminal history records and information.

Article IX.  
Renunciation.

(a) This compact shall bind each party state until renounced by the party state.

(b) Any renunciation of this compact by a party state must:

- (1) Be effected in the same manner by which the party state ratified this compact; and
- (2) Become effective 180 days after written notice of renunciation is provided by the party state to each other party state and to the federal government.

Article X.  
Severability.

The provisions of this compact must be severable. If any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any participating state or to the Constitution of the United States or if the applicability of any phrase, clause, sentence, or provision of this compact to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability of the remainder of the compact to any government, agency, person, or circumstance may not be affected by the severability. If a portion of this compact is held contrary to the constitution of any party state, all other portions of this compact must remain in full force and effect as to the remaining party states and in full force and effect as to the party state affected, as to all other provisions.

Article XI.  
Adjudication of Disputes.

(a) The council:

- (1) Has initial authority to make determinations with respect to any dispute regarding:
 
  - a. Interpretation of this compact;
  - b. Any rule or standard established by the council pursuant to Article VI; and
  - c. Any dispute or controversy between any parties to this compact; and

(2) Shall hold a hearing concerning any dispute described in subdivision (a)(1) of this Article XI at a regularly scheduled meeting of the council and only render a decision based upon a majority vote of the members of the council. The decision must be published pursuant to the requirements of Article VI(e).

(b) The FBI shall exercise immediate and necessary action to preserve the integrity of the III system, to maintain system policy and standards, to protect the accuracy and privacy of records, and to prevent abuses until the council holds a hearing on the matters.

(c) The FBI or a party state may appeal any decision of the council to the Attorney General and after that appeal may file suit in the appropriate district court of the United States that has original jurisdiction of all cases or controversies arising under this compact. Any suit arising under this compact and initiated in a state court must be removed to the appropriate district court of the United States in the manner provided by section 1446 of Title 28, United States Code, or other statutory authority."

**SECTION 3.** The North Carolina Attorney General shall report to the General Assembly on or before March 1, 2004, on the following:

- (1) The compact officer to be appointed pursuant to Article III of the National Crime Prevention and Privacy Compact.
- (2) Any rules or procedures to be adopted to implement the Compact.
- (3) Any provisions of the General Statutes that must be repealed or amended to conform to the Compact.

**SECTION 4.** Part 2 of Article 4 of Chapter 114, as amended by Section 1 of this act, is amended by adding a new section to read:

**"§ 114-19.12. Criminal record checks for municipalities.**

The Department of Justice may provide to a city from the State and National Repositories of Criminal Histories the criminal history of any person who applies for employment with the city. The city shall provide to the Department of Justice, along with the request, the fingerprints of the applicant, a form signed by the applicant consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Department of Justice. The applicant's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The city shall keep all information obtained pursuant to this section confidential. The Department of Justice may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information."

**SECTION 5.** Part 4 of Article 7 of Chapter 160A is amended by adding a new section to read:

**"§ 160A-164.1. Criminal history record check of employees permitted.**

The council may adopt or provide for rules and regulations or ordinances concerning a requirement that any applicant for employment be subject to a criminal history record check of State and National Repositories of Criminal Histories conducted by the Department of Justice in accordance with G.S. 114-19.12. The city may consider the results of these criminal history record checks in its hiring decisions."

**SECTION 6.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 9<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 12:35 p.m. on the 19<sup>th</sup> day of June, 2003.

**H.B. 1210****Session Law 2003-215**

AN ACT MODIFYING THE MEMBERSHIP OF THE BOARD OF TRUSTEES OF THE NORTH CAROLINA SCHOOL OF THE ARTS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 116-65 reads as rewritten:

**"§ 116-65. To be part of University of North Carolina; membership of Board of Trustees.**

The North Carolina School of Arts is a part of the University of North Carolina and subject to the provisions of Article 1, Chapter 116, of the General Statutes; provided, however, that notwithstanding the provisions of G.S. 116-31, the Board of Trustees of said school shall consist of 15 persons, 13 of whom are selected in accordance with provisions of G.S. 116-31, and the conductor of the North Carolina ~~Symphony~~ Symphony, or the conductor's designee, and the Secretary of the Department of Cultural Resources, both serving ex officio and nonvoting."

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

In the General Assembly read three times and ratified this the 9<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 12:36 p.m. on the 19<sup>th</sup> day of June, 2003.

**S.B. 771****Session Law 2003-216**

AN ACT TO PROHIBIT THE USE OF A PERSON'S CREDIT HISTORY AS A SOLE BASIS FOR TERMINATING INSURANCE COVERAGE OR SUBJECTING A POLICY TO CONSENT TO RATE.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Article 36 of Chapter 58 of the General Statutes is amended by adding a new section to read:

**"§ 58-36-90. Prohibitions on using credit scoring to rate noncommercial private passenger motor vehicle and residential property insurance; exceptions.**

(a) Definitions. – As used in this section:

(1) "Adverse action" has the same meaning as in section 1681a(k) of the federal Fair Credit Reporting Act and includes a denial or cancellation of, an increase in any charge for, or a reduction or other adverse or unfavorable change in the terms of coverage or amount of any insurance, existing or applied for, in connection with the underwriting of insurance.

(2) "Credit report" means any written, oral, or other communication of any information by a consumer reporting agency that bears on a consumer's credit worthiness, credit standing, or credit capacity. Credit

report does not include accident or traffic violation records as maintained by the North Carolina Division of Motor Vehicles or any other law enforcement agency, a property loss report or claims history that does not include information that bears on a consumer's credit worthiness, credit standing, or credit capacity, or any report containing information solely as to transactions or experiences between the consumer and the person making the report.

- (3) "Credit score" means a score that is derived by utilizing data from an individual's credit report in an algorithm, computer program, model, or other process that reduces the data to a number or rating.
- (4) "Noncommercial private passenger motor vehicle" means a "private passenger motor vehicle," as defined by G.S. 58-40-10, that is neither insured under a commercial policy nor used for commercial purposes.
- (5) "Private passenger motor vehicle" has the same meaning as set forth in G.S. 58-40-10.
- (6) "Residential property" means real property with not more than four housing units located in this State, the contents thereof and valuable interest therein, and insurance coverage written in connection with the sale of that property. It also includes mobile homes, modular homes, townhomes, condominiums, and insurance on contents of apartments and rental property used for residential purposes.

(b) Prohibitions; Exceptions. – In the rating and underwriting of noncommercial private passenger motor vehicle and residential property insurance coverage, insurers shall not use credit scoring as the sole basis for terminating an existing policy or any coverage in an existing policy or subjecting a policy to consent to rate as specified in G.S. 58-36-30(b) without consideration of any other risk factors, but insurers may use credit scoring as the sole basis for discounting rates. For purposes of this subsection only, "existing policy" means a policy that has been in effect for more than 60 days.

(c) Notification. – If a credit report is used in conjunction with other criteria to take an adverse action, the insurer shall provide the applicant or policyholder with written notice of the action taken, in a form approved by the Commissioner. The notification shall include, in easily understandable language:

- (1) The specific reason for the adverse action and, if the adverse action was based upon a credit score, a description of the factors that were the primary influence on the score.
- (2) The name, address, and toll-free telephone number of the credit bureau that provided the insurer with the credit-based information.
- (3) The fact that the consumer has the right to obtain a free copy of the consumer's credit report from the appropriate credit bureau.
- (4) The fact that the consumer has the right to challenge information contained in the consumer's credit report.

(d) Disputed Credit Report Information. – If it is determined through the dispute resolution process set forth in the federal Fair Credit Reporting Act, 15 U.S.C. § 1681i(a)(5), that the credit information of a current insured was incorrect or incomplete and if the insurer receives notice of such determination from either the consumer reporting agency or from the insured, the insurer shall re-underwrite or re-rate the consumer within 30 days of receiving the notice. After re-underwriting or re-rating the insured, the insurer shall make any adjustments necessary, consistent with its underwriting guidelines. If an insurer determines the insured has overpaid premium, the

insurer shall refund to the insured the amount of overpayment calculated back to the shorter of either the last 12 months of coverage or the actual policy period.

(e) Indemnification. – An insurer shall indemnify, defend, and hold agents harmless from and against all liability, fees, and costs arising out of or relating to the actions, errors, or omissions of an agent who obtains or uses credit information or insurance scores for an insurer, provided the agent follows the instructions or procedures established by the insurer and complies with any applicable law or regulation. Nothing in this subsection shall be construed to provide a consumer or other insured with a cause of action that does not exist in the absence of this subsection.

(f) Filing. – Insurers that use insurance scores to underwrite and rate risks shall file their scoring models, or other scoring processes, with the Department. A filing that includes insurance scoring may include loss experience justifying the applicable surcharge or credit. A filer may request that its credit score data be considered a trade secret and may designate parts of its filings accordingly."

**SECTION 2.** This act becomes effective January 1, 2004, and applies to policies issued or renewed on or after that date and to applications for coverage made on or after that date.

In the General Assembly read three times and ratified this the 9<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 12:37 p.m. on the 19<sup>th</sup> day of June, 2003.

**S.B. 167**

**Session Law 2003-217**

AN ACT PERMITTING WEAPONS ON THE HOWELL WOODS NATURE CENTER PROPERTY OF JOHNSTON COMMUNITY COLLEGE FOR HUNTING PURPOSES.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 14-269.2(g) reads as rewritten:

"(g) This section shall not apply to:

- (1) A weapon used solely for educational or school-sanctioned ceremonial purposes, or used in a school-approved program conducted under the supervision of an adult whose supervision has been approved by the school authority;
- (1a) A person exempted by the provisions of G.S. 14-269(b);
- (2) Firefighters, emergency service personnel, North Carolina Forest Service personnel, and any private police employed by an educational institution, when acting in the discharge of their official duties; ~~or~~
- (3) Home schools as defined in ~~G.S. 115C-563(a)~~. G.S. 115C-563(a); or
- (4) Weapons used for hunting purposes on the Howell Woods Nature Center property in Johnston County owned by Johnston Community College when used with the written permission of Johnston Community College."

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

In the General Assembly read three times and ratified this the 10<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 12:38 p.m. on the 19<sup>th</sup> day of June, 2003.

AN ACT TO AMEND THE LAW REGARDING TOWNSHIP ABC ELECTIONS IN CERTAIN TOWNSHIPS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 18B-600(f) reads as rewritten:

"(f) Township Elections. — An election may be called on any of the propositions listed in G.S. 18B-602 in any township located within:

- (1) A county where ABC stores have heretofore been established by petition pursuant to law.
- (2) A county where ABC stores have been established pursuant to law, in which county according to data from the North Carolina Department of Commerce: (i) one-third or more of the employment is travel related, (ii) spending on travel exceeds four hundred million dollars (\$400,000,000) per year, and where the entirety of two townships consists of one island (and several smaller islands not making up more than one percent (1%) of the total land area of the two townships) where that island:
  - a. Has a population of 4,000 or over according to the most recent decennial federal census;
  - b. Is located with one side facing the ocean and another side facing a coastal sound.
- (3) A county where the population of all cities in the county that have previously approved the sale of any kind of alcoholic beverages comprises more than twenty percent (20%) of the total county population as of the most recent federal census.

In the case of subdivision (2) of this section, an election may be called in the two townships voting together on the proposition contained in G.S. 18B-602(h).

The election shall be held by the county board of elections upon request of the county board of commissioners or upon petition of twenty-five percent (25%) of the registered voters of the township, or in the case of subdivision (2) of this section, of the two townships taken together. The election shall be conducted and the results determined in the same manner as county elections held under this Article. For purposes of this Article, townships holding any election under this subsection shall be treated on the same basis as counties, and municipalities located within those townships shall be treated on the same basis as cities. In the case of an election under subdivision (2) of this subsection, the votes of the two townships counted together shall determine the result of the election.

For purposes of this subsection, the name and boundary of a township is as it is shown on the Redistricting Census 2000 TIGER Files with modifications made by the Legislative Services Office on its computer database as of May 1, 2001.

In any township election held under this subsection, the area within any incorporated municipality is excluded, and no permits may be issued under this subsection in any excluded area.

In order for an establishment to qualify for a permit under this subsection, the establishment's gross receipts from food and nonalcoholic beverages shall be greater than its gross receipts from alcoholic beverages."

**SECTION 2.** G.S. 18B-604 reads as rewritten:**"§ 18B-604. Timing and effect of subsequent elections.**

(a) Time Limits. – No county alcoholic beverage election may be held within three years of the certification of the results of a previous election on the same kind of alcoholic beverages in that county. No city alcoholic beverage election may be held within three years of the certification of the results of a previous election on the same kind of alcoholic beverage in that city. Otherwise, alcoholic beverage elections may be held at any time, subject to the applicable provisions of this Chapter and Chapter 163.

(b) Effect of Favorable County Vote on ~~City~~. City or Township. – If a majority of voters vote in favor of certain alcoholic beverage sales in a county election, sale of that kind of alcoholic beverage shall be lawful throughout the county, regardless of the vote in any city or township at that or any previous or subsequent election, and regardless of any local act making sales unlawful in that ~~city~~, city or township, unless the local act was ratified before the effective date of Article II, Section 24(1)(j) of the Constitution of North Carolina. A county malt beverage or unfortified [wine] election in favor of a particular ballot proposition which is more restrictive than the form of sale already allowed in a city or township within that county shall not affect the legality of those previously authorized sales in the ~~city~~. city or township.

(c) Effect of Negative County Vote on ~~City~~. City or Township. – If a majority of voters vote against certain alcoholic beverage sales in a county election, sale of that kind of alcoholic beverage shall be unlawful throughout the county, except that sale of that alcoholic beverage shall remain lawful in any city or township in which sale is lawful because of a city or township election or a local act.

(d) Effect of City or Township Election on County. – A city or township alcoholic beverage election shall not affect the lawfulness of sale in any part of the county outside that ~~city~~. city or township.

~~(e) ABC Store Required for Mixed Beverages. – The sale of mixed beverages may not continue in a city or county at any time after the ABC stores which are requisite to mixed beverage sales have closed.~~

(f) When Sales Stop. – When the sale of any alcoholic beverage that was previously lawful becomes unlawful because of an election, the sale of that alcoholic beverage shall cease 90 days after certification of the results of the election."

**SECTION 3.** G.S. 18B-404(b) reads as rewritten:

"(b) Issuance. – If mixed beverages sales have been approved for an establishment under G.S. 18B-603(d1) or under G.S. 18B-603(e), or for an establishment located in a township in which mixed beverages have been approved the purchase-transportation permit for that establishment may be issued by the local board of any city located in the same county as the establishment, provided the city has approved the sale of mixed beverages. Otherwise a licensed establishment may obtain a mixed beverages purchase-transportation permit only from the local board for the jurisdiction in which it is located. If there is no ABC store within the establishment's jurisdiction, then the mixed beverages permittee shall obtain a mixed beverages purchase-transportation permit from the nearest and most convenient ABC store."

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

In the General Assembly read three times and ratified this the 10<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 12:39 p.m. on the 19<sup>th</sup> day of June, 2003.

AN ACT TO CLARIFY THE REQUIREMENTS FOR SUBORDINATION AGREEMENTS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Article 1 of Chapter 39 of the General Statutes is amended by adding a new section to read:

**"§ 39-6.6. Subordination agreements.**

(a) A written commitment or agreement to subordinate or that subordinates an interest in real property signed by a person entitled to priority shall be given effect in accordance with its terms and is not required to state any interest rate, principal amount secured, or other financial terms. For purposes of this section, an "interest in real property" shall include all rights, title, and interest in and to land, buildings, and other improvements of an owner, tenant, subtenant, secured lender, materialman, judgment creditor, lienholder, or other person, whether the interest in real property is evidenced by a deed, easement, lease, sublease, deed of trust, mortgage, assignment of leases and rents, judgment, claim of lien, or any other record, instrument, document, or entry of court.

(b) The trustee of a deed of trust shall not be a necessary party to a subordination agreement unless the deed of trust provides otherwise.

(c) For purposes of G.S. 1-47, a commitment or agreement described in subsection (a) of this section is deemed a conveyance of an interest in real property.

(d) The section is not exclusive. No agreement that is otherwise valid shall be invalidated by failure to comply with the provisions of this section."

**SECTION 2.** G.S. 47-18(a) reads as rewritten:

"(a) No (i) conveyance of land, or (ii) contract to convey, or (iii) option to convey, or (iv) lease of land for more than three years shall be valid to pass any property interest as against lien creditors or purchasers for a valuable consideration from the donor, bargainor or lessor but from the time of registration thereof in the county where the land lies, or if the land is located in more than one county, then in each county where any portion of the land lies to be effective as to the land in that county. Unless otherwise stated either on the recorded instrument or on a separate recorded instrument duly executed by the party whose priority interest is adversely affected, instruments registered in the public record shall be presumed to have priority based on the order of recordation as determined by the time of recordation. If instruments are recorded simultaneously, then the order of recordation shall be presumed as follows, in order of priority:

- (1) The earliest document number set forth on the recorded instrument.
- (2) The sequential book and page number set forth on the document if no document number is set forth on the recorded instrument.

The presumptions created by this subsection are rebuttable."

**SECTION 3.** G.S. 47-20(a) reads as rewritten:

"(a) No deed of trust or mortgage of real or personal property, or of a leasehold interest or other chattel real, or conditional sales contract of personal property in which the title is retained by the vendor, shall be valid to pass any property as against lien creditors or purchasers for a valuable consideration from the grantor, mortgagor or conditional sales vendee, but from the time of registration thereof as provided in this Article; provided however that any transaction subject to the provisions of the Uniform



Commercial Code (Chapter 25 of the General Statutes) is controlled by the provisions of that act and not by this section. Unless otherwise stated either on the recorded instrument or on a separate recorded instrument duly executed by the party whose priority interest is adversely affected, instruments registered in the public record shall be presumed to have priority based on the order of recordation as determined by the time of recordation. If instruments are recorded simultaneously, then the order of recordation shall be presumed as follows, in order of priority:

- (1) The earliest document number set forth on the recorded instrument.
- (2) The sequential book and page number set forth on the document if no document number is set forth on the recorded instrument.

The presumptions created by this subsection are rebuttable."

**SECTION 4.** Section 1 of this act becomes effective October 1, 2003, and applies to subordination agreements filed or recorded on or after that date. Sections 2 and 3 of this act become effective October 1, 2003, and apply to all instruments filed or recorded on or after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 9<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 12:40 p.m. on the 19<sup>th</sup> day of June, 2003.

**S.B. 439**

**Session Law 2003-220**

**AN ACT MAKING OMNIBUS CHANGES TO THE EMPLOYMENT SECURITY LAWS OF NORTH CAROLINA.**

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 96-14(1) reads as rewritten:

- "(1) For the duration of his unemployment beginning with the first day of the first week after the disqualifying act occurs with respect to which week an individual files a claim for benefits if it is determined by the Commission that such individual is, at the time such claim is filed, unemployed because he left work without good cause attributable to the employer.

Where an individual leaves work due solely to a disability incurred or other health condition, whether or not related to the work, he shall not be disqualified for benefits if the individual shows:

- a. That, at the time of leaving, an adequate disability or health ~~condition~~, condition of the employee, of a minor child who is in the legally recognized custody of the individual, of an aged or disabled parent of the individual, or of a disabled member of the individual's immediate family, either medically diagnosed or otherwise shown by competent evidence, existed to justify the leaving and prevented the employee from doing other alternative work offered by the employer which pays the minimum wage or eighty-five percent (85%) of the individual's regular wage, whichever is greater; and
- b. That, at a reasonable time prior to leaving, the individual gave the employer notice of ~~his~~ the disability or health condition.

Where an employee is notified by the employer that such employee will be separated from employment on some future date and the employee leaves work prior to this date because of the impending separation, the employee shall be deemed to have left work voluntarily and the leaving shall be without good cause attributable to the employer. However, if the employee shows to the satisfaction of the Commission that it was impracticable or unduly burdensome for the employee to work until the announced separation date, the permanent disqualification imposed for leaving work without good cause attributable to the employer may be reduced to the greater of four weeks or the period running from the beginning of the week during which the claim for benefits was made until the end of the week of the announced separation date.

An employer's placing an individual on a bona fide disciplinary suspension of 10 or fewer consecutive calendar days shall not constitute good cause for leaving work."

**SECTION 2.** G.S. 96-9(c)(2) reads as rewritten:

"(2) Charging of benefit payments. –

- a. Benefits paid shall be allocated to the account of each base period employer in the proportion that the base period wages paid to an eligible individual in any calendar quarter by each such employer bears to the total wages paid by all base period employers during the base period, except as hereinafter provided in paragraphs b, c, and d of this subdivision, G.S. 96-9(d)(2)c, and 96-12.01G. The amount so allocated shall be multiplied by one hundred twenty percent (120%) and charged to that employer's account. Benefits paid shall be charged to employers' accounts upon the basis of benefits paid to claimants whose benefit years have expired.
- b. Any benefits paid to any claimant under a claim filed for a period occurring after the date of such separations as are set forth in this paragraph and based on wages paid prior to the date of (i) the leaving of work by the claimant without good cause attributable to the employer; (ii) the discharge of claimant for misconduct in connection with his work; (iii) the discharge of the claimant for substantial fault as that term may be defined in G.S. 96-14; (iv) the discharge of the claimant solely for a bona fide inability to do the work for which he was hired but only where the claimant's period of employment was 100 days or less; (v) separations made disqualifying under G.S. 96-14(2b) and (6a); (vi) separation due to leaving for disability or health condition; or (vii) separation of claimant solely as the result of an undue family ~~hardship~~; hardship shall not be charged to the account of an employer by whom the claimant was employed at the time of such separation; provided, however, said employer promptly furnishes the Commission with such notices regarding any separation of the individual from work as are or may be required by the regulations of the Commission.

No benefit charges shall be made to the account of any employer who has furnished work to an individual who, because of the loss of employment with one or more other employers, becomes eligible for partial benefits while still being furnished work by such employer on substantially the same basis and substantially the same amount as had been made available to such individual during his base period whether the employments were simultaneous or successive; provided, that such employer makes a written request for noncharging of benefits in accordance with Commission regulations and procedures.

No benefit charges shall be made to the account of any employer for benefit years ending on or before June 30, 1992, where benefits were paid as a result of a discharge due directly to the reemployment of a veteran mandated by the Veteran's Reemployment Rights Law, 38 USCA § 2021, et seq.

No benefit charges shall be made to the account of any employer where benefits are paid as a result of a decision by an Adjudicator, Appeals Referee or the Commission if such decision to pay benefits is ultimately reversed; nor shall any such benefits paid be deemed to constitute an overpayment under G.S. 96-18(g)(2), the provisions thereof notwithstanding. Provided, an overpayment of benefits paid shall be established in order to provide for the waiting period required by G.S. 96-13(c).

- c. Any benefits paid to any claimant who is attending a vocational school or training program as provided in G.S. 96-13(a)(3) shall not be charged to the account of the base period employer(s).
- d. Any benefits paid to any claimant under the following conditions shall not be charged to the account of the base period employer(s):
  1. The benefits are paid for unemployment due directly to a major natural disaster, and
  2. The President has declared the disaster pursuant to the Disaster Relief Act of 1970, 42 USCA 4401, et seq., and
  3. The benefits are paid to claimants who would have been eligible for disaster unemployment assistance under this Act, if they had not received unemployment insurance benefits with respect to that unemployment.
- e.
  1. Any benefits paid to any claimant which are based on previously uncovered employment which are reimbursable by the federal government shall not be charged to the experience rating account of any employer.
  2. For purposes of this paragraph previously uncovered employment for which benefits are reimbursable by the federal government means services performed before July 1, 1978, in the case of a week of unemployment beginning before July 1, 1978, or before January 1, 1978,

in the case of a week of unemployment beginning after July 1, 1978, and to the extent that assistance under Title II of the Emergency Jobs and Unemployment Assistance Act of 1974 (SUA) was not paid to such individuals on the basis of such service."

**SECTION 3.** G.S. 96-14(1f) reads as rewritten:

"(1f) For the purposes of this Chapter, any claimant's leaving work, or discharge, if the claimant has been adjudged an aggrieved party as set forth by Chapter 50B of the General Statutes or there is evidence of domestic violence, sexual offense, or stalking, or the claimant has been granted program participant status pursuant to G.S. 15C-4 as the result of domestic violence committed upon the claimant or upon a minor child with or in the custody of the claimant by a person who has or has had a familial relationship with the claimant or minor child, shall constitute good cause for leaving work. Benefits paid on the basis of this section shall be noncharged. Evidence of domestic violence, sexual offense, or stalking may include: (i) law enforcement, court, or federal agency records or files; (ii) documentation from a domestic violence or sexual assault program if the claimant is alleged to be a victim of domestic violence or sexual assault; and (iii) documentation from a religious, medical, or other professional from whom the claimant has sought assistance in dealing with the alleged domestic violence, sexual abuse, or stalking."

**SECTION 4.** G.S. 96-9(d)(1) reads as rewritten:

- "(1) a. Any nonprofit organization which becomes subject to this Chapter on or after January 1, 1972, shall pay contributions under the provisions of this Chapter, unless it elects in accordance with this paragraph to pay the Commission for the Unemployment Insurance Fund an amount equal to the amount of regular benefits and of one half of the extended benefits paid, that is attributable to service in the employ of such nonprofit organization, to individuals for weeks of unemployment which begin within a benefit year established during the effective period of such election.
- b. Any nonprofit organization which is or becomes subject to this Chapter on or after January 1, 1972, may elect to become liable for payments in lieu of contributions for a period of not less than four calendar years beginning with the date on which subjectivity begins by filing a written notice of its election with the Commission not later than 30 days immediately following the date of written notification of the determination of such subjectivity. Provided if notification is not by registered mail, the election may be made on or after January 1, 1972, within six months following the date of the written notification of the determination of such subjectivity. If such election is not made as set forth herein, no election can be made until after four calendar years have elapsed under the contributions method of payment.

- c. Any nonprofit organization which makes an election in accordance with subparagraph b of this paragraph will continue after such four calendar years to be liable for payments in lieu of contributions until it files with the Commission a written notice terminating its election not later than 30 days prior to the next January 1, effective on such January 1. Provided, however, no employer granted or in reimbursement status will be allowed refund of any previous balances used in a transfer to reimbursement status.
- d. Any nonprofit organization which has been paying contributions under this Chapter for a period of at least four consecutive calendar years subsequent to January 1, 1972, may elect to change to a reimbursement basis by filing with the Commission not later than 30 days prior to the next January 1 a written notice of election to become liable for payments in lieu of contributions, effective on such January 1. Such election shall not be terminable for a period of four calendar years. In the event of such an election, the account of such employer shall be closed and shall not be used in any future computation of such employer's contribution rate in any manner whatsoever. Provided, however, any nonprofit employer formerly paying contributions who elects and qualifies to change to a reimbursement basis may be relieved of the requirement to pay one percent (1%) of taxable wages as required by G.S. 96-9(d)(2)a to the following extent and upon the following conditions:
1. Any nonprofit employer which has, for the year the election will be effective, an experience rating of 1.7 or less, will have transferred from its experience rating account an amount equal to one percent (1%) of its payroll as reported for each of the four calendar quarters which constitute the election year;
  2. Any nonprofit employer which has, for the year the election will be effective, an experience rating of less than 2.7 but more than 1.7, will have transferred from its experience rating account an amount equal to one-half of one percent (.5%) of its payroll as reported for each of the four calendar quarters which constitute the election year. Such employers shall make advance payments to the Commission quarterly, computed at one-half of one percent (.5%) of the taxable wages reported as provided in G.S. 96-9(d)(2)a;
  3. Any nonprofit employer which has, for the year the election will become effective, an experience rating of 2.7 or more, upon electing to change to a reimbursement basis, will meet all the requirements of G.S. 96-9(d)(2)a, including making advance payments computed at one percent (1%) of taxable wages.

- e. The Commission, in accordance with such regulations as it may adopt, shall notify each nonprofit organization of any determination which it may make of its status as an employer and of the effective date of any election which it makes and of any termination of such election. Such determinations shall be subject to reconsideration, appeal and review."

**SECTION 5.** G.S. 96-13(a) is amended by adding a new subdivision to read:

"(6) An unemployed individual shall not be disqualified for eligibility for unemployment compensation benefits solely on the basis that the individual is only available for part-time work. If an individual restricts his or her eligibility to part-time work, the individual may be considered able and available to work if it is determined that all the following conditions exist:

- a. The claimant's monetary eligibility is based predominately on wages from part-time work.
- b. The claimant is actively seeking and is willing to accept work under essentially the same conditions as existed while the claimant's reported wages were accrued.
- c. The claimant imposes no other restriction and is in a labor market in which a reasonable demand exists for part-time service.

This subdivision shall not be construed to amend subdivision (3) of this subsection as it applies to students or G.S. 96-16 as it applies to seasonal workers."

**SECTION 6.** G.S. 96-14(1d) reads as rewritten:

"(1d) For the purposes of this Chapter, any claimant leaving work to accompany the claimant's spouse to a new place of residence where that spouse has secured work in a location that is too far removed for the claimant reasonably to continue his or her work shall serve a time certain disqualification for benefits for a period of ~~five~~two weeks beginning the first day of the first week after the disqualifying act occurs with respect to which week an individual files a claim for benefits. Notwithstanding the other provisions of this subdivision, any claimant leaving work to accompany the claimant's spouse to a new place of residence because the spouse has been reassigned from one military assignment to another shall be deemed good cause for leaving work."

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

In the General Assembly read three times and ratified this the 10<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 12:41 p.m. on the 19<sup>th</sup> day of June, 2003.

**H.B. 270**

**Session Law 2003-221**

AN ACT TO MAKE TECHNICAL CORRECTIONS TO THE INSURANCE LAWS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** The introductory clause of Section 4 of S.L. 2002-144 reads as rewritten:

"~~SECTION 4. G.S. 143-10(a)~~ G.S. 143-143.10(a) reads as rewritten:"

**SECTION 2.** G.S. 58-26-31(a) reads as rewritten:

"(a) Each domestic title insurance company shall withdraw from use funds to be used by the Commissioner in the event of the insurer's insolvency, the funds being equal to the statutory premium reserve and the supplemental reserve pursuant to G.S. 58-26-25. The amount shall be held in a trust account, as approved by the Commissioner. The trust account will be held in favor of the holders of title policies in the event of the insolvency of the ~~insurer.~~ insurer, and is not subject to G.S. 41-15. Nothing in this section precludes the insurer from investing the reserve in investments authorized by law for that insurer, and the income from the invested reserve shall be included in the general income of the insurer to be used by the insurer for any lawful purpose."

**SECTION 3.** G.S. 1-507.7 reads as rewritten:

"§ **1-507.7. Report on claims to court; exceptions and jury trial.**

It is the duty of the receiver to report to the session of the superior court subsequent to a finding by him as to any claim against the corporation, and exceptions thereto may be filed by any person interested, within 10 days after notice of the finding by the receiver, and not later than within the first three days of the said term; and, if, on an exception so filed, a jury trial is demanded, it is the duty of the court to prepare a proper issue and submit it to a jury; and if the demand is not made in the exceptions to the report the right to a jury trial is waived. The judge may, in his discretion, extend the time for filing such exceptions. Provided, that no court shall issue any order of distribution or order of discharge of a receiver until said receiver has proved to the satisfaction of the court that written notice has been mailed to the last known address of every claimant who has properly filed claim with the receiver, to the effect that such orders will be applied for at a certain time and place therein set forth and by producing a receipt issued by the United States post office, showing that such notice has been mailed to each of such claimant's last known address at least 20 days prior to the time set for hearing and passing upon such application to the court for said orders of distribution and/or discharge.

As to delinquency proceedings for insurance companies under Article ~~17A~~ 30 of General Statutes Chapter 58, such prior notice need be given only to those claimants whose presented claims have been denied or have not been adjudicated; and notice is satisfied by mailing either a general notice of application for distribution showing disposition of the claims or a copy of the application to such claimants. Proof of mailing with the United States Postal Service may be made by the receiver's certificate of service without either the necessity of postal receipt or the listing of individual claimants names and addresses."

**SECTION 4.** G.S. 1-339.1(8) reads as rewritten:

"(8) A sale made in the course of liquidation of an insurance company pursuant to Article ~~17A~~ 30 of Chapter 58 of the General Statutes, or".

**SECTION 5.** G.S. 58-33-133(c) reads as rewritten:

"(c) Fees collected by the Commissioner under this section shall be credited to the ~~Department of Insurance~~ Regulatory Fund created under G.S. 58-6-25."

**SECTION 6.** G.S. 143-138(g) reads as rewritten:

"(g) **(Effective until June 30, 2003)** Publication and Distribution of Code. – The Building Code Council shall cause to be printed, after adoption by the Council, the North Carolina State Building Code and each amendment thereto. It shall, at the State's expense, distribute copies of the Code and each amendment to State and local governmental officials, departments, agencies, and educational institutions, as is set out in the table below. (Those marked by an asterisk will receive copies only on written request to the Council.)

OFFICIAL OR AGENCY	NUMBER OF COPIES
State Departments and Officials	
Governor .....	1
Lieutenant Governor .....	1
Auditor .....	1
Treasurer .....	1
Secretary of State .....	1
Superintendent of Public Instruction .....	1
Attorney General (Library) .....	1
Commissioner of Agriculture .....	1
Commissioner of Labor .....	1
Commissioner of Insurance .....	1
Department of Environment and Natural Resources .....	1
Department of Health and Human Services .....	1
Department of Juvenile Justice and Delinquency Prevention .....	1
Board of Transportation .....	1
Utilities Commission .....	1
Department of Administration .....	1
Clerk of the Supreme Court .....	1
Clerk of the Court of Appeals .....	1
Department of Cultural Resources [State Library] .....	1
Supreme Court Library .....	1
Legislative Library .....	1
Office of Administrative Hearings .....	1
Rules Review Commission .....	1
Schools	
All state-supported colleges and universities in the State of North Carolina .....	*1 each
Local Officials	
Clerks of the Superior Courts .....	1 each
Chief Building Inspector of each incorporated municipality or county .....	1

In addition, the Building Code Council shall make additional copies available at such price as it shall deem reasonable to members of the general public. The proceeds from sales of the Building Code shall be credited to the ~~Department of Insurance~~ Regulatory Fund under G.S. 58-6-25."



**SECTION 7.** G.S. 58-69-40 reads as rewritten:

**"§ 58-69-40. Disposition of fees.**

All fees collected by the Commissioner under this Article shall be credited to the ~~Department of Insurance~~ Regulatory Fund created under G.S. 58-6-25."

**SECTION 8.** G.S. 58-70-45 reads as rewritten:

**"§ 58-70-45. Disposition of permit fees.**

All permit fees collected under this Article shall be credited to the ~~Department of Insurance~~ Regulatory Fund created under G.S. 58-6-25."

**SECTION 9.** G.S. 58-71-180 reads as rewritten:

**"§ 58-71-180. Disposition of fees.**

Fees collected by the Commissioner pursuant to this Article shall be credited to the ~~Department of Insurance~~ Regulatory Fund created under G.S. 58-6-25."

**SECTION 10.** G.S. 143-151.21 reads as rewritten:

**"§ 143-151.21. Disposition of fees.**

Fees collected by the Commissioner under this Article shall be credited to the ~~Department of Insurance~~ Regulatory Fund created under G.S. 58-6-25."

**SECTION 11.** G.S. 58-85-30 reads as rewritten:

**"§ 58-85-30. Treasurer to pay fund to Volunteer Firemen's Association.**

(a) The treasurer of the North Carolina State Firemen's Association shall pay to the treasurer of the North Carolina State Volunteer Firemen's Association one sixth of the funds arising from the ~~five percent (5%)~~ three percent (3%) paid ~~him~~ the treasurer of the North Carolina State Firemen's Association by the ~~Insurance~~ Commissioner each year to be used by ~~said~~ the North Carolina State Volunteer Firemen's Association for the purposes set forth in G.S. 58-84-35.

(b) Local units of the North Carolina State Volunteer Firemen's Association shall maintain records and report to the North Carolina State Firemen's Association in ~~the same manner and to the same extent as provided for in accordance with~~ G.S. 58-84-40, and shall be subject to the sanctions ~~as set forth therein in~~ G.S. 58-84-40."

**SECTION 12.** G.S. 58-51-80(c) reads as rewritten:

"(c) The term "employees" as used in this section shall be deemed to include, for the purposes of insurance hereunder, employees of a single employer, the officers, managers, and employees of the employer and of subsidiary or affiliated corporations of a corporation employer, and the individual proprietors, partners, and employees of individuals and firms of which the business is controlled by the insured employer through stock ownership, contract or otherwise. ~~Employees~~ With the exception of disability income insurance, employees shall be added to the group coverage no later than 90 days after their first day of employment. Employment shall be considered continuous and not be considered broken except for unexcused absences from work for reasons other than illness or injury. The term "employee" is defined as a nonseasonal person who works on a full-time basis, with a normal work week of 30 or more hours and who is otherwise eligible for coverage, but does not include a person who works on a part-time, temporary, or substitute basis. The term "employer" as used herein may be deemed to include the State of North Carolina, any county, municipality or corporation, or the proper officers, as such, of any unincorporated municipality or any department or subdivision of the State, county, such corporation, or municipality determined by conditions pertaining to the employment."

**SECTION 13.** G.S. 58-33-83 reads as rewritten:

**"§ 58-33-83. Assumed names.**

An insurance producer doing business under any name other than the producer's legal name shall notify the ~~Commission~~Commissioner before using the assumed name."

**SECTION 14.** G.S. 58-30-200(c) reads as rewritten:

"(c) The liquidator shall make his recommendations to the Court under ~~G.S. 58-30-125~~, G.S. 58-30-225 for the allowance of an insured's claim under subsection (b) of this section after consideration of the probable outcome of any pending action against the insured on which the claim is based, the probable damages recoverable in the action, and the probable costs and expenses of defense. After allowance by the Court, the liquidator shall withhold any dividends payable on the claim, pending the outcome of litigation and negotiation with the insured. Whenever it seems appropriate, he shall reconsider the claim on the basis of additional information and amend his recommendations to the Court. The insured shall be afforded the same notice and opportunity to be heard on all changes in the recommendation as in its initial determination. The Court may amend its allowance as it thinks appropriate. As claims against the insured are settled or barred, the insured shall be paid from the amount withheld the same percentage dividend as was paid on other claims of like property, based on the lesser of (i) the amount actually recovered from the insured by action or paid by agreement plus the reasonable costs and expense of defense, or (ii) the amount allowed on the claims by the Court. After all claims are settled or barred, any sum remaining from the amount withheld shall revert to the undistributed assets of the insurer. Delay in final payment under this subsection shall not be a reason for unreasonable delay of final distribution and discharge of the liquidator."

**SECTION 15.** G.S. 97-195(b)(4) is repealed.

**SECTION 16.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 10<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 12:42 p.m. on the 19<sup>th</sup> day of June, 2003.

**H.B. 1260**

**Session Law 2003-222**

**AN ACT TO INCREASE THE MAXIMUM FEES THAT THE BOARD OF EXAMINERS FOR SPEECH AND LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS MAY ASSESS FOR CERTAIN FEES.**

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 90-305 reads as rewritten:

**"§ 90-305. Fees.**

Persons subject to licensure under this Article shall pay ~~the following~~ fees to the ~~Board~~Board not to exceed the following:

- (1) Application fee ..... \$30.00
- (2) Examination fee..... 30.00
- (3) Initial license fee ..... ~~40.00~~100.00
- (4) Renewal license fee ..... ~~40.00~~100.00
- (5) Temporary license ..... 40.00
- (6) Delinquency fee..... ~~25.00~~25.00."

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

In the General Assembly read three times and ratified this the 10<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 12:43 p.m. on the 19<sup>th</sup> day of June, 2003.

**S.B. 887**

**Session Law 2003-223**

AN ACT TO MANDATE INSURANCE COVERAGE FOR SURVEILLANCE TESTS FOR WOMEN AGE TWENTY-FIVE AND OLDER AND AT RISK FOR OVARIAN CANCER.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Article 3 of Chapter 58 is amended by adding the following new section:

**"§ 58-3-266. Coverage for surveillance tests for women at risk for ovarian cancer.**

(a) Every health benefit plan, as defined in G.S. 58-3-167, shall provide coverage for surveillance tests for women age 25 and older at risk for ovarian cancer. As used in this section:

(1) 'At risk for ovarian cancer' means either:

a. Having a family history:

1. With at least one first-degree relative with ovarian cancer; and

2. A second relative, either first-degree or second-degree, with breast, ovarian, or nonpolyposis colorectal cancer;

or

b. Testing positive for a hereditary ovarian cancer syndrome.

(2) 'Surveillance tests' mean annual screening using:

a. Transvaginal ultrasound; and

b. Rectovaginal pelvic examination.

(b) The same deductibles, coinsurance, and other limitations as apply to similar services covered under the plan apply to coverage for transvaginal ultrasound and rectovaginal pelvic examinations required to be covered under this section."

**SECTION 2.** G.S. 58-50-155 reads as rewritten:

**"§ 58-50-155. Standard and basic health care plan coverages.**

(a) Notwithstanding G.S. 58-50-125(c), the standard health plan developed and approved under G.S. 58-50-125 shall provide coverage for all of the following:

(1) Mammograms and pap smears at least equal to the coverage required by G.S. 58-51-57.

(2) Prostate-specific antigen (PSA) tests or equivalent tests for the presence of prostate cancer at least equal to the coverage required by G.S. 58-51-58.

(3) Reconstructive breast surgery resulting from a mastectomy at least equal to the coverage required by G.S. 58-51-62.

(4) For a qualified individual, scientifically proven bone mass measurement for the diagnosis and evaluation of osteoporosis or low bone mass at least equal to the coverage required by G.S. 58-3-174.

(5) Prescribed contraceptive drugs or devices that prevent pregnancy and that are approved by the United States Food and Drug Administration

for use as contraceptives, or outpatient contraceptive services at least equal to the coverage required by G.S. 58-3-178, if the plan covers prescription drugs or devices, or outpatient services, as applicable. The same exceptions and exclusions as are provided under G.S. 58-3-178 apply to standard plans developed and approved under G.S. 58-50-125.

(6) Colorectal cancer examinations and laboratory tests at least equal to the coverage required by G.S. 58-3-179.

(7) Surveillance tests at least equal to coverage required by G.S. 58-3-266.

(a1), (a2) Repealed by Session Laws 1999-197, s. 2.

(b) Notwithstanding G.S. 58-50-125(c), in developing and approving the plans under G.S. 58-50-125, the Committee and Commissioner shall give due consideration to cost-effective and life-saving health care services and to cost-effective health care providers."

**SECTION 3.** This act becomes effective January 1, 2004, and applies to all health benefit plans that are delivered, issued for delivery, or renewed on and after that date. For the purposes of this act, renewal of a health benefit plan is presumed to occur on each anniversary of the date on which coverage was first effective on the person or persons covered by the health benefit plan.

In the General Assembly read three times and ratified this the 11<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 12:45 p.m. on the 19<sup>th</sup> day of June, 2003.

## H.B. 1155

## Session Law 2003-224

AN ACT ALLOWING PAYROLL DEDUCTION FOR STATE EMPLOYEES CONTRIBUTING TO THE PARENTAL SAVINGS TRUST FUND.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 143-3.3 is amended by adding a new subsection to read:

"(f1) Payroll Deduction for Contributions to the Parental Savings Fund Allowed. – An employee of the State may authorize, in writing, the periodic deduction from the employee's salary or wages paid for employment by the State of a designated lump sum for deposit in the Parental Savings Trust Fund administered by the State Education Assistance Authority."

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

In the General Assembly read three times and ratified this the 9<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 12:46 p.m. on the 19<sup>th</sup> day of June, 2003.

## H.B. 637

## Session Law 2003-225

AN ACT TO PERMIT THE SETTLOR OF A REVOCABLE TRUST TO RELIEVE THE TRUSTEE OF DUTIES, RESTRICTIONS, AND LIABILITIES IMPOSED BY THE UNIFORM TRUSTS ACT.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 36A-78 reads as rewritten:

"§ 36A-78. **Power of settlor.**

~~The settlor of any trust affected by this Article may, by provision in the instrument creating the trust if the trust was created by a writing, or by oral statement to the trustee at the time of the creation of the trust if the trust was created orally, or by an amendment of the trust if the settlor reserved the power to amend the trust, relieve liabilities which would otherwise be imposed upon him by this Article; or alter or deny to his trustee any or all of the privileges and powers conferred upon the trustee by this Article; or add duties, restrictions, liabilities, privileges, or powers, to those imposed or granted by this Article; but no act of the settlor shall relieve a trustee from the duties, restrictions, and liabilities imposed upon him by G.S. 36A-62, 36A-63 and G.S. 36A-66.~~

(a) The settlor of any trust affected by this Article may (i) relieve the trustee from any or all duties, restrictions, and liabilities that would otherwise be imposed upon the trustee by this Article, (ii) alter or deny to the trustee any or all of the privileges and powers conferred upon the trustee by this Article, or (iii) add duties, restrictions, liabilities, privileges, or powers to those imposed or granted by this Article. The settlor may accomplish any of these actions by one of the following methods:

- (1) By provision in the instrument creating the trust if the trust was created by a writing.
- (2) By oral statement to the trustee at the time of the creation of the trust if the trust was created orally.
- (3) By an amendment of the trust if the settlor reserved the power to amend the trust.
- (4) By written instrument delivered to the trustee of a revocable trust.

(b) Notwithstanding subsection (a) of this section, any settlor who has not reserved the power to revoke the trust shall not relieve the trustee from the duties, restrictions, and liabilities imposed upon the trustee by G.S. 36A-62, 36A-63, and 36A-66."

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

In the General Assembly read three times and ratified this the 11<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 12:47 p.m. on the 19<sup>th</sup> day of June, 2003.

**H.B. 842**

**Session Law 2003-226**

AN ACT TO PROVIDE FOR A SYSTEM FOR ALL NORTH CAROLINA ELECTIONS THAT COMPLIES WITH THE HELP AMERICA VOTE ACT AND TO HELP PREVENT DUPLICATE NAMES ON JURY LISTS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** The purpose of this act is to ensure that the State of North Carolina has a system for all North Carolina elections that complies with the requirements for federal elections set forth in the federal Help America Vote Act of 2002, Public Law 107-252, 116 Stat. 1666 (2002), codified at 42 U.S.C. §§ 15481-15485.

The General Assembly finds that the education and training of election officials as required by G.S. 163-82.34 has met and continues to meet the mandate for the education and training of precinct officials and other election officials in section 254(a)(3) of the Help America Vote Act of 2002. The General Assembly further finds that the establishment, development, and continued operation of the statewide list maintenance program for voter registration set forth in G.S. 163-82.14 has met and continues to meet the mandates of section 303(a)(2) of the Help America Vote Act of 2002.

In certain other areas of the election statutes and other laws, the General Assembly finds that the statutes must be amended to comply with the Help America Vote Act.

**SECTION 2.** G.S. 163-82.10(a) reads as rewritten:

"(a) ~~Application Form Becomes Official Record.~~ – The State voter registration system is the official voter registration list for the conduct of all elections in the State. A completed and signed registration application form-form, if available, described in G.S. 163-82.3, once approved by the county board of elections, becomes backup to the official registration record of the voter. Electronically captured images of the signatures of voters, full or partial social security numbers, and drivers license numbers that may be generated in the voter registration process, by either the State Board of Elections or a county board of elections, are confidential and shall not be considered public records and subject to disclosure to the general public under Chapter 132 of the General Statutes. Disclosure of drivers license numbers in violation of this subsection shall not give rise to a civil cause of action. This limitation of liability does not apply to the disclosure of drivers license numbers in violation of this subsection as a result of gross negligence, wanton conduct, or intentional wrongdoing that would otherwise be actionable. The county board of elections shall maintain custody of ~~the official~~ any paper hard copy registration records of ~~all~~ voters in the county and shall keep them in a place where they are secure."

**SECTION 3.** G.S. 163-82.10 is amended by adding a new subsection to read:

"(a1) Paperless, Instant Electronic Transfer. – The application described in G.S. 163-82.3 may be either a paper hard copy or an electronic document."

**SECTION 4.** G.S. 163-82.6(b) reads as rewritten:

"(b) Signature. – The form shall be valid only if signed by the applicant. An electronically captured image of the signature of a voter on an electronic voter registration form offered by a State agency shall be considered a valid signature for all purposes for which a signature on a paper voter registration form is used."

**SECTION 5.** G.S. 132-1.2 reads as rewritten:

"§ **132-1.2. Confidential information.**

Nothing in this Chapter shall be construed to require or authorize a public agency or its subdivision to disclose any information that:

- (1) Meets all of the following conditions:
  - a. Constitutes a "trade secret" as defined in G.S. 66-152(3).
  - b. Is the property of a private "person" as defined in G.S. 66-152(2).
  - c. Is disclosed or furnished to the public agency in connection with the owner's performance of a public contract or in connection with a bid, application, proposal, industrial development project, or in compliance with laws, regulations,

rules, or ordinances of the United States, the State, or political subdivisions of the State.

- d. Is designated or indicated as "confidential" or as a "trade secret" at the time of its initial disclosure to the public agency.
- (2) Reveals an account number for electronic payment as defined in G.S. 147-86.20 and obtained pursuant to Articles 6A or 6B of Chapter 147 of the General Statutes or G.S. 159-32.1.
  - (3) Reveals a document, file number, password, or any other information maintained by the Secretary of State pursuant to Article 21 of Chapter 130A of the General Statutes.
  - (4) Reveals the electronically captured image of an individual's signature, drivers license number, or a portion of an individual's social security number if the agency has those items because they are on a voter registration document."

**SECTION 6.** G.S. 163-82.11 reads as rewritten:

**"§ 163-82.11. Establishment of statewide computerized voter registration.**

(a) Statewide System as Official List. – The State Board of Elections shall develop and implement a statewide computerized voter registration system to facilitate voter registration and to provide a central database containing voter registration information for each county. The system shall serve as the single system for storing and managing the official list of registered voters in the State. The system shall serve as the official voter registration list for the conduct of all elections in the State. The system shall encompass both software development and purchasing of the necessary hardware for the central and distributed-network systems.

(b) Uses of Statewide System. – The State Board of Elections shall develop and implement the system so that each county board of elections ~~can~~ can do all the following:

- (1) Verify that an applicant to register in its county is not also registered in another ~~county;~~ county.
- (2) Be notified automatically that a registered voter in its county has registered to vote in another ~~county;~~ and county.
- (3) Receive automatically data about a person who has applied to vote at a drivers license office or at another public agency that is authorized to accept voter registration applications.

(c) Compliance With Federal Law. – The State Board of Elections shall update the statewide computerized voter registration list and database to meet the requirements of section 303(a) of the Help America Vote Act of 2002 and to reflect changes when citizenship rights are restored under G.S. 13-1.

(d) Role of County and State Boards of Elections. – Each county board of elections shall be responsible for registering voters within its county according to law. Each county board of elections shall maintain its ~~own computer file of registered voters records~~ by using the statewide computerized voter registration system in accordance with rules promulgated by the State Board of Elections. Each county board of elections shall ~~transmit~~ enter through the computer ~~network system~~ all additions, deletions, and changes in its list of registered voters promptly to the statewide computer file system. ~~The State Board of Elections shall maintain a continually updated duplicate file of each county's registered voters.~~

(e) Cooperation on List for Jury Commissions. – The State Board of Elections shall assist the Division of Motor Vehicles in providing to the county jury commission

of each county, as required by G.S. 20-43.4, a list of all registered voters in the county and all persons in the county with drivers license records."

**SECTION 7.(a)** G.S. 163-82.12 reads as rewritten:

"§ 163-82.12. **Promulgation of ~~rules~~ guidelines relating to computerized voter registration.**

The State Board of Elections shall make all ~~rules~~ guidelines necessary to administer the statewide voter registration system established by this Article. All county boards of elections shall follow these guidelines and cooperate with the State Board of Elections in implementing guidelines. These ~~rules~~ guidelines shall include provisions ~~for~~ for all of the following:

- (1) Establishing, developing, and maintaining a computerized central voter registration ~~file;~~ file.
- (2) Linking the central file through a network with computerized voter registration files in each of the ~~counties;~~ counties.
- (3) Interacting with the computerized drivers license records of the Division of Motor Vehicles and with the computerized records of other public agencies authorized to accept voter registration ~~applications;~~ applications.
- (4) Protecting and securing the ~~data;~~ and data.
- (5) Converting current voter registration records in the counties in computer files that can be used on the statewide computerized registration system.
- (6) Enabling the statewide system to determine whether the voter identification information provided by an individual is valid.
- (7) Enabling the statewide system to interact electronically with the Division of Motor Vehicles system to validate identification information.
- (8) Enabling the Division of Motor Vehicles to provide real-time interface for the validation of the drivers license number and last four digits of the social security number.
- (9) Enabling the statewide system to assign a unique identifier to each legally registered voter in the State.
- (10) Enabling the State Board of Elections to assist the Division of Motor Vehicles in providing to the jury commission of each county, as required by G.S. 20-43.4, a list of all registered voters in the county and all persons in the county with drivers license records.

These guidelines shall not be considered to be rules subject to Article 2A of Chapter 150B of the General Statutes. However, the State Board shall publish in the North Carolina Register the guidelines and any changes to them after adoption, with that publication noted as information helpful to the public under G.S. 150B-21.17(a)(6). Copies of those guidelines shall be made available to the public upon request or otherwise by the State Board."

**SECTION 7.(b)** G.S. 163-82.19 reads as rewritten:

"§ 163-82.19. **Voter registration at drivers license ~~offices.~~ offices; coordination on data interface.**

(a) Voter Registration at Drivers License Offices. – The Division of Motor Vehicles shall, pursuant to the rules adopted by the State Board of Elections, modify its forms so that any eligible person who applies for original issuance, renewal or correction of a drivers license, or special identification card issued under G.S. 20-37.7



may, on a part of the form, complete an application to register to vote or to update his registration if the voter has changed his address or moved from one precinct to another or from one county to another. The person taking the application shall ask if the applicant is a citizen of the United States. If the applicant states that the applicant is not a citizen of the United States, or declines to answer the question, the person taking the application shall inform the applicant that it is a felony for a person who is not a citizen of the United States to apply to register to vote. Any person who willfully and knowingly and with fraudulent intent gives false information on the application is guilty of a Class I felony. The application shall state in clear language the penalty for violation of this section. The necessary forms shall be prescribed by the State Board of Elections. The form must ask for the previous voter registration address of the voter, if any. If a previous address is listed, and it is not in the county of residence of the applicant, the appropriate county board of elections shall treat the application as an authorization to cancel the previous registration and also process it as such under the procedures of G.S. 163-82.9. If a previous address is listed and that address is in the county where the voter applies to register, the application shall be processed as if it had been submitted under G.S. 163-82.9.

Registration shall become effective as provided in G.S. 163-82.7. Applications to register to vote accepted at a drivers license office under this section until the deadline established in G.S. 163-82.6(c)(2) shall be treated as timely made for an election, and no person who completes an application at that drivers license office shall be denied the vote in that election for failure to apply earlier than that deadline.

All applications shall be forwarded by the Department of Transportation to the appropriate board of elections not later than five business days after the date of acceptance, according to rules which shall be promulgated by the State Board of Elections. Those rules shall provide for a paperless, instant, electronic transfer of applications to the appropriate ~~county~~ board of elections.

(b) Coordination on Data Interface. – The Department of Transportation jointly with the State Board of Elections shall develop and operate a computerized interface to match information in the database of the statewide voter registration system with the drivers license information in the Division of Motor Vehicles to the extent required to enable the State Board of Elections and the Department of Transportation to verify the accuracy of the information provided on applications for voter registration, whether the applications were received at drivers license offices or elsewhere. The Department of Transportation and the State Board shall implement the provisions of this subsection so as to comply with section 303 of the Help America Vote Act of 2002. The Department of Transportation shall enter into an agreement with the Commissioner of Social Security so as to comply with section 303 of the Help America Vote Act of 2002."

**SECTION 7.(c)** G.S. 20-43.4 reads as rewritten:

**"§ 20-43.4. Current list of licensed drivers to be provided to jury commissions.**

The Commissioner of Motor Vehicles shall provide to each county jury commission an alphabetical list of all persons that ~~he~~ the Commissioner has determined are residents of the county, who will be 18 years of age or older as of the first day of January of the following year, and licensed to drive a motor vehicle ~~as of July 1, 1983, and as of July 1 of each biennium thereafter, odd-numbered year,~~ provided that if an annual jury list is being prepared under G.S. 9-2(a), the list to be provided to the county jury commission shall be provided annually. The list shall include those persons whose license to drive has been suspended, and those former licensees whose license has been canceled. The list shall contain the address and zip code of each driver, plus ~~his~~ the driver's date of

~~birth and birth, sex, and drivers license number, and may be in either printed or computerized form, as requested by each county. Before providing the list to the county jury commission, the Commissioner shall have computer-matched the list with the voter registration list of the State Board of Elections to eliminate duplicates. The Commissioner shall include in the list provided to the county jury commission names of registered voters who do not have drivers licenses, and shall indicate the licensed or formerly licensed drivers who are also registered voters, the licensed or formerly licensed drivers who are not registered voters, and the registered voters who are not licensed or formerly licensed drivers. The list so provided shall be used solely for jury selection and election records purposes and no other. Information provided by the Commissioner to county jury commissions and the State Board of Elections under this section shall remain confidential, shall continue to be subject to the disclosure restriction provisions of G.S. 20-43.1, and shall not be a public record for purposes of Chapter 132 of the General Statutes."~~

**SECTION 7.(d)** G.S. 9-2 reads as rewritten:

**"§ 9-2. Preparation of jury list; sources of names.**

(a) ~~It shall be the duty of the jury commission beginning July 1, 1981, (and each biennium thereafter) on July 1 of every odd-numbered year to prepare a list of prospective jurors qualified under this Chapter to serve in the biennium beginning January 1, 1982, (and each biennium thereafter) on January 1 of the next year. Instead of providing a list for an entire biennium, the commission may prepare a list each year if the senior regular resident superior court judge requests in writing that it do so.~~

(b) ~~In preparing the list, the jury commission shall use the voter registration records of the county. list of registered voters and persons with drivers license records supplied to the county by the Commissioner of Motor Vehicles pursuant to G.S. 20-43.4. The commission may use fewer than all the names from the voter-list if it uses a random method of selection. The commission may use other sources of names deemed by it to be reliable.~~

(c) ~~Effective July 1, 1983, the list of licensed drivers residing in each county, as supplied to the county by the Division of Motor Vehicles pursuant to G.S. 20-43.4, shall also be required as a source of names for use by the commission in preparing the jury list.~~

(d) ~~When more than one source is used to prepare the jury list the jury commission shall take randomly a sample of names from the list of registered voters and each additional source used. The same percentage of names must be selected from each list. The names selected from the voter registration list shall be compared with the entire list of names, from the second source. Duplicate names shall be removed from the voter registration sample, and the remaining names shall then be combined with the sample of names selected from the second source to form the jury list. If more than two source lists are used, the same procedure must be used to remove duplicates.~~

(e) ~~As an alternative to the procedure set forth in subsection (d), the~~ The jury commission may shall merge the entire list of names of each source used, used remove the duplicate names, and randomly select the desired number of names to form the jury list.

(f) The jury list shall contain not less than one and one-quarter times and not more than three times as many names as were drawn for jury duty in all courts in the county during the previous biennium, or, if an annual list is being prepared as requested under subsection (a) of this section the jury list shall contain not less than one and one-quarter times and not more than three times as many names as were drawn for jury

duty in all courts in the county during the previous year but in no event shall the list include fewer than 500 names, except that in counties in which a different panel of jurors is selected for each day of the week, there is no limit to the number of names that may be placed on the jury list.

~~(g) The custodian of the appropriate election registration records in each county shall cooperate with the jury commission in its duty of compiling the list required by this section.~~

(h) As used in this section 'random' or 'randomly' refers to a method of selection that results in each name on a list having an equal opportunity to be selected."

**SECTION 8.** Article 13A of Chapter 163 of the General Statutes is amended by adding a new section to read:

**"§ 163-166.7A. Voter education and information.**

(a) Posting the Information. – For each election that involves candidates for federal or State office, each county board of elections shall post at each active voting place the following information in a manner and format approved by the State Board of Elections:

- (1) A sample ballot as required by G.S. 163-165.2.
- (2) The date of the election and the hours the voting place will be open.
- (3) Instructions on how to vote, including how to cast a vote or correct a vote on the voting systems available for use in that voting place.
- (4) Instructions on how to cast a provisional ballot.
- (5) Instructions to mail-in registrants and first-time voters on how to comply with the requirements in section 303(b) of the Help America Vote Act of 2002 concerning voter identifications.
- (6) General information on voting rights under applicable federal and State law, including information on the right of an individual to cast a provisional ballot and instructions on how to contact the appropriate officials if the voter believes those rights have been violated.
- (7) General information on federal and State laws that prohibit acts of fraud and misrepresentation as to voting and elections.

(b) Intent. – The posting required by subsection (a) of this section is intended to meet the mandate of the voting information requirements in section 302(b) of the Help America Vote Act of 2002."

**SECTION 9.** G.S. 163-82.4 reads as rewritten:

**"§ 163-82.4. Contents of application form.**

(a) Information Requested of Applicant. – The form required by G.S. 163-82.3(a) shall request the applicant's:

- (1) Name,
- (2) Date of birth,
- (3) Residence address,
- (4) County of residence,
- (5) Date of application,
- (6) Gender,
- (7) Race,
- (7a) Ethnicity,
- (8) Political party affiliation, if any, in accordance with subsection (c) of this section,
- (9) Telephone number (to assist the county board of elections in contacting the voter if needed in processing the application),

- (10) Drivers license number or, if the applicant does not have a drivers license number, the last four digits of the applicant's social security number.

and any other information the State Board finds is necessary to enable officials of the county where the person resides to satisfactorily process the application. The form shall require the applicant to state whether currently registered to vote anywhere, and at what address, so that any prior registration can be cancelled. The portions of the form concerning race and ethnicity shall include as a choice any category shown by the most recent decennial federal census to compose at least one percent (1%) of the total population of North Carolina. The county board shall make a diligent effort to complete for the registration records any information requested on the form that the applicant does not complete, but no application shall be denied because an applicant does not state race, ethnicity, gender, or telephone number. The application shall conspicuously state that provision of the applicant's telephone number is optional. If the county board maintains voter records on computer, the free list provided under this subsection shall include telephone numbers if the county board enters the telephone number into its computer records of voters.

(a1) No Drivers License or Social Security Number Issued. – The State Board shall assign a unique identifier number to an applicant for voter registration if the applicant has not been issued either a current and valid drivers license or a social security number. That unique identifier number shall serve to identify that applicant for voter registration purposes.

(b) Notice of Requirements, Attestation, Notice of Penalty, and Notice of Confidentiality. – The form required by G.S. 163-82.3(a) shall contain, in uniform type, the following:

- (1) A statement that specifies each eligibility requirement (including citizenship) and an attestation that the applicant meets each such requirement, with a requirement for the signature of the applicant, under penalty of a Class I felony under G.S. 163-275(4).
- (2) A statement that, if the applicant declines to register to vote, the fact that the applicant has declined to register will remain confidential and will be used only for voter registration purposes.
- (3) A statement that, if the applicant does register to vote, the office at which the applicant submits a voter registration application will remain confidential and will be used only for voter registration purposes.

(c) Party Affiliation or Unaffiliated Status. – The application form described in G.S. 163-82.3(a) shall provide a place for the applicant to state a preference to be affiliated with one of the political parties in G.S. 163-96, or a preference to be an "unaffiliated" voter. Every person who applies to register shall state his preference. If the applicant fails to declare a preference for a party or for unaffiliated status, that person shall be listed as "unaffiliated", except that if the person is already registered to vote in the county and that person's registration already contains a party affiliation, the county board shall not change the registrant's status to "unaffiliated" unless the registrant clearly indicates a desire in accordance with G.S. 163-82.17 for such a change. An unaffiliated registrant shall not be eligible to vote in any political party primary, except as provided in G.S. 163-119, but may vote in any other primary or general election. The application form shall so state.

(d) Citizenship and Age Questions. – Voter registration application forms shall include all of the following:

- (1) The question 'Are you a citizen of the United States of America?' and boxes for the applicant to check to indicate whether the applicant is or is not a citizen of the United States.
- (2) The question 'Will you be 18 years of age on or before election day?' and boxes for the applicant to check to indicate whether the applicant will be 18 years of age or older on election day.
- (3) The statement 'If you checked "no" in response to either of these questions, do not complete this form.'

If the voter fails to answer the question set out in subdivision (1) of this subsection, the person filling out the registration shall be notified of the omission and given the opportunity to complete the form in a timely manner in order to be registered for the next election."

**SECTION 10.** G.S. 163-82.10A reads as rewritten:

**"§ 163-82.10A. Permanent voter registration numbers.**

~~Each county board of elections~~The statewide voter registration system shall assign to each voter a unique registration number. That number shall be permanent for that voter and shall not be changed or reassigned by the county board of elections."

**SECTION 11.** G.S. 163-165.7 reads as rewritten:

**"§ 163-165.7. Voting systems: powers and duties of State Board of Elections.**

The State Board of Elections shall have authority to approve types, makes, and models of voting systems for use in elections and referenda held in this State. Only voting systems that have been approved by the State Board shall be used to conduct elections under this Chapter, and the approved systems shall be valid in any election or referendum held in any county or municipality. The State Board may use guidelines, information, testing reports, certification, decertification, recertification, and any relevant data produced by the Election Assistance Commission, its Standards Board, its Board of Advisors, or the Technical Guidelines Development Committee as established in Title II of the Help America Vote Act of 2002 with regard to any action or investigation the State Board may take concerning a voting system. The State Board may use, for the purposes of voting system certification, laboratories accredited by the Election Assistance Commission under the provisions of section 231(2) of the Help America Vote Act of 2002. The State Board may, upon request of a local board of elections, authorize the use of a voting system not approved for general use. The State Board may also, upon notice and hearing, disapprove types, makes, and models of voting systems. Upon disapproving a type, make, or model of voting system, the State Board shall determine the process by which the disapproved system is discontinued in any county. If a county makes a showing that discontinuance would impose a financial hardship upon it, the county shall be given up to four years from the time of State Board disapproval to replace the system. A county may appeal a decision by the State Board concerning discontinuance of a voting system to the superior court in that county or to the Superior Court of Wake County. The county has 30 days from the time of the State Board's decision on discontinuance to make that appeal.

Subject to the provisions of this Chapter, the State Board of Elections shall prescribe rules for the adoption, handling, operation, and honest use of voting systems, including, but not limited to, the following:

- (1) Types, makes, and models of voting systems approved for use in this State.

- (2) Form of official ballot labels to be used on voting systems.
- (3) Operation and manner of voting on voting systems.
- (4) Instruction of precinct officials in the use of voting systems.
- (5) Instruction of voters in the use of voting systems.
- (6) Assistance to voters using voting systems.
- (7) Duties of custodians of voting systems.
- (8) Examination of voting systems before use in an election.
- (9) Compliance with section 301 of the Help America Vote Act of 2002."

**SECTION 12.** G.S. 163-165.4A reads as rewritten:

"§ 163-165.4A. ~~Punch-Card ballots.~~**Punch-card ballots and lever machines.**

(a) No ballot may be used in any referendum, primary, or other election as an official ballot if it requires the voter to punch out a hole with a stylus or other tool.

(a1) No lever machine voting system may be used in any referendum, primary, or other election as a means of voting the official ballot. A 'lever machine voting system' is a voting system on which the voter casts a vote by pressing a lever and the vote is mechanically recorded by the machine.

(b) In any counties that used punch-card ballots as official ballots or lever machines in the election of November 2000, and in any municipalities located in those counties, this section becomes effective January 1, 2006. It is the intent of the General Assembly that any county that uses county funds to replace voting equipment to satisfy this section shall be given priority in appropriations to counties for voting equipment."

**SECTION 13.** G.S. 163-182.1 reads as rewritten:

"§ 163-182.1. **Principles and rules for counting official ballots.**

(a) General Principles That Shall Apply. – The following general principles shall apply in the counting of official ballots, whether the initial count or any recount:

- (1) Only official ballots shall be counted.
- (2) No official ballot shall be rejected because of technical errors in marking it, unless it is impossible to clearly determine the voter's choice.
- (3) If it is impossible to clearly determine a voter's choice in a ballot item, the official ballot shall not be counted for that ballot item, but shall be counted in all other ballot items in which the voter's choice can be clearly determined.
- (4) If an official ballot is marked in a ballot item with more choices than there are offices to be filled or propositions that may prevail, the official ballot shall not be counted for that ballot item, but shall be counted in all other ballot items in which there is no overvote and the voter's choice can be clearly determined.
- (5) If an official ballot is rejected by a scanner or other counting machine, but human counters can clearly determine the voter's choice, the official ballot shall be counted by hand and eye.
- (6) Write-in votes shall not be counted in party primaries or in referenda, but shall be counted in general elections if all of the following are true:
  - a. The write-in vote is written by the voter or by a person authorized to assist the voter pursuant to G.S. 163-166.8.
  - b. The write-in vote is not cast for a candidate who has failed to qualify under G.S. 163-123 as a write-in candidate.
  - c. The voter's choice can be clearly determined.

- (7) Straight-party ticket and split-ticket votes shall be counted in general elections according to the following guidelines:
- a. If a voter casts a vote for a straight-party ticket, that vote shall be counted for all the candidates of that party, other than those for President and Vice President, in the partisan ballot items on that official ballot except as otherwise provided in this subdivision.
  - b. If a voter casts a vote for a straight-party ticket and also votes in a partisan ballot item for a candidate not of that party, the official ballot shall be counted in that ballot item only for the individually marked candidate. In partisan ballot items where no mark is made for an individual candidate, the official ballot shall be counted for the candidates of the party whose straight ticket the voter voted.
  - c. If a voter casts a vote for a straight-party ticket and also casts a write-in vote in any partisan ballot item, the straight-party ticket vote shall not control the way the official ballot is counted in that ballot item, except to the extent it would control in the case of crossover voting under this subdivision. The following principles shall apply:
    1. If the write-in vote is proper under subdivision (6) of this subsection, that write-in candidate shall receive a vote.
    2. If the write-in vote is not proper under subdivision (6) of this subsection and no other candidate is individually marked in that ballot item, then no vote shall be counted in that ballot item.
    3. If the straight-ticket voter casts both write-in votes and individually marked votes for ballot candidates in a ballot item, then the write-in and individually marked votes shall be counted unless the write-in is not proper under subdivision (6) of this subsection or an overvote results.

~~(b) Rules and Directions by State Board of Elections.—The State Board of Elections shall promulgate rules where necessary to apply the principles in subsection (a) of this section to each voting system in use in the State. The rules shall prescribe procedures and standards for each type of voting system. Those procedures and standards shall be followed uniformly throughout the State in all places where that type of voting system is used. The State Board shall direct the county boards of elections in the application of the principles and rules in individual circumstances.~~

(b) Procedures and Standards. — The State Board of Elections shall adopt uniform and nondiscriminatory procedures and standards for voting systems. The standards shall define what constitutes a vote and what will be counted as a vote for each category of voting system used in the State. The State Board shall adopt those procedures and standards at a meeting occurring not earlier than 15 days after the State Board gives notice of the meeting. The procedures and standards adopted shall apply to all elections occurring in the State and shall be subject to amendment or repeal by the State Board acting at any meeting where notice that the action has been proposed has been given at least 15 days before the meeting. These procedures and standards shall not be considered to be rules subject to Article 2A of Chapter 150B of the General Statutes.

However, the State Board shall publish in the North Carolina Register the procedures and standards and any changes to them after adoption, with that publication noted as information helpful to the public under G.S. 150B-21.17(a)(6). Copies of those procedures and standards shall be made available to the public upon request or otherwise by the State Board. For optical scan and direct record systems, those procedures and standards shall provide that if the voter selects votes for more than the number of candidates to be elected or proposals to be approved in a ballot item, the voting system shall do all the following:

- (1) Notify the voter that the voter has selected more than the correct number of candidates or proposals in the ballot item.
- (2) Notify the voter before the vote is accepted and counted of the effect of casting overvotes in the ballot item.
- (3) Provide the voter with the opportunity to correct the official ballot before it is accepted and counted."

**SECTION 14.** G.S. 163-166.01 reads as rewritten:

**"§ 163-166.01. Hours for voting.**

In every election, the voting place shall be open at 6:30 A.M. and shall be closed at 7:30 P.M. In extraordinary circumstances, the county board of elections may direct that the polls remain open until 8:30 P.M. If any voter is in line to vote at the time the polls are closed, that voter shall be permitted to vote. No voter shall be permitted to vote who arrives at the voting place after the closing of the polls.

Any voter who votes after the statutory poll closing time of 7:30 P.M. by virtue of a federal or State court order or any other lawful order, including an order of a county board of elections, shall be allowed to vote, under the provisions of that order, only by using a provisional official ballot. Any special provisional official ballots cast under this section shall be separated, counted, and held apart from other provisional ballots cast by other voters not under the effect of the order extending the closing time of the voting place. If the court order has not been reversed or stayed by the time of the county canvass, the total for that category of provisional ballots shall be added to the official canvass."

**SECTION 14.1.** G.S. 163-166.7 reads as rewritten:

**"§ 163-166.7. Voting procedures.**

(a) **Checking Registration.** – A person seeking to vote shall enter the voting enclosure through the appropriate entrance. A precinct official assigned to check registration shall at once ask the voter to state current name and residence address. The voter shall answer by stating current name and residence address. In a primary election, that voter shall also be asked to state, and shall state, the political party with which the voter is affiliated or, if unaffiliated, the authorizing party in which the voter wishes to vote. After examination, that official shall state whether that voter is duly registered to vote in that precinct and shall direct that voter to the voting equipment or to the official assigned to distribute official ballots. If a precinct official states that the person is duly registered, the person shall sign the pollbook, other voting record, or voter authorization document in accordance with subsection (c) of this section before voting.

(b) **Distribution of Official Ballots.** – If the voter is found to be duly registered and has not been successfully challenged, the official assigned to distribute the official ballots shall hand the voter the official ballot that voter is entitled to vote, or that voter shall be directed to the voting equipment that contains the official ballot. No voter in a primary shall be permitted to vote in more than one party's primary. The precinct



officials shall provide the voter with any information the voter requests to enable that voter to vote as that voter desires.

(c) The State Board of Elections shall promulgate rules for the process of voting. Those rules shall emphasize the appearance as well as the reality of dignity, good order, impartiality, and the convenience and privacy of the voter. Those rules, at a minimum, shall include procedures to ensure that all the following occur:

- (1) The voting system remains secure throughout the period voting is being conducted.
- (2) Only properly voted official ballots are introduced into the voting system.
- (3) Except as provided by G.S. 163-166.9, no official ballots leave the voting enclosure during the time voting is being conducted there.
- (4) All improperly voted official ballots are returned to the precinct officials and marked as spoiled.
- (5) Voters leave the voting place promptly after voting.
- (6) Voters not clearly eligible to vote in the precinct but who seek to vote there are given proper assistance in voting a provisional official ballot or guidance to another voting place where they are eligible to vote.
- (7) Information gleaned through the voting process that would be helpful to the accurate maintenance of the voter registration records is recorded and delivered to the county board of elections.
- (8) The registration records are kept secure.
- (9) Party observers are given access as provided by G.S. 163-45 to current information about which voters have voted.
- (10) The voter, before voting, shall sign that voter's name on the pollbook, other voting record, or voter authorization document. If the voter is unable to sign, a precinct official shall enter the person's name on the same document before the voter votes.

**SECTION 15.** Article 13A of Chapter 163 of the General Statutes is amended by adding a new section to read:

**"§ 163-166.11. Provisional voting requirements.**

If an individual seeking to vote claims to be a registered voter in a jurisdiction and though eligible to vote in the election does not appear on the official list of eligible registered voters in the voting place, that individual may cast a provisional official ballot as follows:

- (1) An election official at the voting place shall notify the individual that the individual may cast a provisional official ballot in that election.
- (2) The individual may cast a provisional official ballot at that voting place upon executing a written affirmation before an election official at the voting place, stating that the individual is a registered voter in the jurisdiction in which the individual seeks to vote and is eligible to vote in that election.
- (3) At the time the individual casts the provisional official ballot, the election officials shall provide the individual written information stating that anyone casting a provisional official ballot can ascertain whether and to what extent the ballot was counted and, if the ballot was not counted in whole or in part, the reason it was not counted. The State Board of Elections or the county board of elections shall establish a system for so informing a provisional voter. It shall make

the system available to every provisional voter without charge, and it shall build into it reasonable procedures to protect the security, confidentiality, and integrity of the voter's personal information and vote.

- (4) The cast provisional official ballot and the written affirmation shall be secured by election officials at the voting place according to guidelines and procedures adopted by the State Board of Elections. At the close of the polls, election officials shall transmit the provisional official ballots cast at that voting place to the county board of elections for prompt verification according to guidelines and procedures adopted by the State Board of Elections.
- (5) The county board of elections shall count the individual's provisional official ballot for all ballot items on which it determines that the individual was eligible under State or federal law to vote."

**SECTION 16.** Article 13A of Chapter 163 of the General Statutes is amended by adding a new section to read:

**"§ 163-166.12. Requirements for certain voters who register by mail.**

(a) Voting in Person. – An individual who has registered to vote by mail on or after January 1, 2003, and has not previously voted in an election that includes a ballot item for federal office in North Carolina, shall present to a local election official at a voting place before voting there one of the following:

- (1) A current and valid photo identification.
- (2) A copy of one of the following documents that shows the name and address of the voter: a current utility bill, bank statement, government check, paycheck, or other government document.

(b) Voting Mail-In Absentee. – An individual who has registered to vote by mail on or after January 1, 2003, and has not previously voted in an election that includes a ballot item for federal office in North Carolina, in order to cast a mail-in absentee vote, shall submit with the mailed-in absentee ballot one of the following:

- (1) A copy of a current and valid photo identification.
- (2) A copy of one of the following documents that shows the name and address of the voter: a current utility bill, bank statement, government check, paycheck, or other government document.

The county board of elections shall note the type of identification proof submitted by the voter and may dispose of the tendered copy of identification proof as soon as the type of proof is noted in the voter registration records.

This subsection shall not apply to persons entitled to vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act.

(c) The Right to Vote Provisionally. – If an individual is required under subsection (a) or (b) of this section to present identification in order to vote, but that individual does not present the required identification, that individual may vote a provisional official ballot. If the voter is at the voting place, the voter may vote provisionally there without unnecessary delay. If the voter is voting by mail-in absentee ballot, the mailed ballot without the required identification shall be treated as a provisional official ballot.

(d) Exemptions. – This section does not apply to any of the following:

- (1) An individual who registers by mail and submits as part of the registration application either of the following:
  - a. A copy of a current and valid photo identification.

- b. A copy of one of the following documents that shows the name and address of the voter: a current utility bill, bank statement, government check, paycheck, or other government document.
- (2) An individual who registers by mail and submits as part of the registration application the individual's drivers license number or at least the last four digits of the individual's social security number where an election official matches either or both of the numbers submitted with an existing State identification record bearing the same number, name, and date of birth contained in the submitted registration.
- (3) An individual who is entitled to vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act.
- (4) An individual who is entitled to vote otherwise than in person under section 3(b)(2)(B)(ii) of the Voting Accessibility for the Elderly and Handicapped Act.
- (5) An individual who is entitled to vote otherwise than in person under any other federal law."

**SECTION 17.(a)** Chapter 163 of the General Statutes is amended by adding a new Article to read:

"Article 8A.

"HAVA Administrative Complaint Procedure.

**"§ 163-91. Complaint procedure.**

(a) The State Board of Elections shall establish a complaint procedure as required by section 402 of Title IV of the Help America Vote Act of 2002 for the resolution of complaints alleging violations of Title III of that Act.

(b) With respect to the adoption of the complaint procedure under this section, the State Board of Elections is exempt from the requirements of Article 2A of Chapter 150B of the General Statutes. Prior to adoption or amendment of the complaint procedure under this section, the State Board of Elections shall complete all of the following:

- (1) Publish the proposed plan in the North Carolina Register at least 30 days prior to the adoption of the final complaint procedure.
- (2) Accept oral and written comments on the proposed complaint procedure.
- (3) Hold at least one public hearing on the proposed complaint procedure.

(c) Hearings and final determinations of complaints filed under the procedure adopted pursuant to this section are not subject to Articles 3 and 4 of Chapter 150B of the General Statutes."

**SECTION 17.(b)** G.S. 150B-1(c) is amended by adding a new subdivision to read:

"(c) Full Exemptions. – This Chapter applies to every agency except:

- ...
- (6) The State Board of Elections in administering the HAVA Administrative Complaint Procedure of Article 8A of Chapter 163 of the General Statutes."

**SECTION 18.** G.S. 163-256 reads as rewritten:

**"§ 163-256. Regulations of State Board of Elections.**

(a) The State Board of Elections shall adopt rules and regulations to carry out the intent and purpose of G.S. 163-254 and 163-255, and to ensure that a proper list of

persons voting under said sections shall be maintained by the boards of elections, and to ensure proper registration records, and such rules and regulations shall not be subject to the provisions of ~~G.S. 150B-9~~. Article 2A of Chapter 150B of the General Statutes.

(b) The State Board of Elections shall be the single office responsible for providing information concerning voter registration and absentee voting procedures to be used by absent uniformed services voters and overseas voters as to all elections and procedures relating to the use of federal write-in absentee ballots. Unless otherwise required by law, the State Board of Elections shall be responsible for maintaining contact and cooperation with the Federal Voting Assistance Program, the United States Department of Defense, and other federal entities that deal with military and overseas voting. The State Board of Elections shall, as needed, make recommendations concerning military and overseas citizen voting to the General Assembly, the Governor, and other State officials."

**SECTION 19.** G.S. 163-245 reads as rewritten:

**"§ 163-245. Persons in armed forces, their spouses, certain veterans, civilians working with armed forces, and members of Peace Corps may register and vote by mail.**

(a) Any individual who is eligible to register and who is qualified to vote in any statewide primary or election held under the laws of this State, and who is absent from the county of his residence in any of the capacities specified in subsection (b) of this section, shall be entitled to register by mail and to vote by military absentee ballot in the manner provided in this Article.

(b) The provisions of this Article shall apply to the following persons:

- (1) Individuals serving in the armed forces of the United States, including, but not limited to, the army, the navy, the air force, the marine corps, the coast guard, the Merchant Marine, the National Oceanic and Atmospheric Administration, the commissioned corps of the Public Health Service, and members of the national guard and military reserve.
- (2) Spouses of persons serving in the armed forces of the United States residing outside the counties of their spouses' voting residence.
- (3) Disabled war veterans in United States government hospitals.
- (4) Civilians attached to and serving outside the United States with the armed forces of the United States.
- (5) Members of the Peace Corps.

(c) An otherwise valid voter registration or absentee ballot application submitted by an absent uniformed services voter during a year shall not be refused or prohibited on the grounds that the voter submitted the application before the first date on which the county board of elections otherwise accepts those applications submitted by absentee voters who are not members of the uniformed services for that year.

(d) If any absent uniformed services or overseas voter submits a voter registration application or absentee ballot request, and the request is rejected, the board of elections that makes the rejection shall notify the voter of the reasons for the rejection.

(e) The requirement for any oath or affirmation to accompany any document as to voter registration or absentee ballots under this Article may be met by use of the standard oath prescribed by the Presidential designee under section 101(b)(7) of the Uniformed and Overseas Citizens Absentee Voting Act."

**SECTION 20.** G.S. 163-247(3) reads as rewritten:

"(3) If a single application from an absentee uniformed voter is received by an election official, it shall be considered a valid absentee ballot request with respect to all general, primary, and runoff elections for federal, State, county, or those municipal offices in which absentee ballots are allowed under the provisions of G.S. 163-302, ~~held during the calendar year the application was received.~~ held through the next two regularly scheduled general elections for federal office. This subdivision does not apply to a special election not involving the election of candidates, unless that special election is being held on the same day as a general or primary election."

**SECTION 21.** Article 7A of Chapter 163 of the General Statutes is amended by adding a new section to read:

**"§ 163-82.27. Help America Vote Act of 2002.**

As used in this Chapter, the term 'Help America Vote Act of 2002' means the Help America Vote Act of 2002, Public Law 107-252, 116 Stat. 1666 (2002), codified at 42 U.S.C. §§ 15481-15485. Citations to titles and sections of the Help America Vote Act of 2002 are as they appear in the Public Law. The State Board shall have the authority to adopt rules and guidelines to implement the minimum requirements of the Help America Vote Act of 2002."

**SECTION 22.** Sections 1, 3, 4, 5, 12, 18, 21, and 22 of this act are effective when this act becomes law. Sections 11 and 13 of this act become effective January 1, 2006. The remainder of this act becomes effective January 1, 2004. All sections of this act apply with respect to all primaries and elections held on or after the date they become effective.

In the General Assembly read three times and ratified this the 11<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 12:48 p.m. on the 19<sup>th</sup> day of June, 2003.

**H.B. 916**

**Session Law 2003-227**

AN ACT TO ESTABLISH A VACCINATION PROGRAM FOR FIRST RESPONDERS TO TERRORIST INCIDENTS, CATASTROPHIC OR NATURAL DISASTERS, OR EMERGENCIES.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Article 22 of Chapter 130A of the General Statutes is amended by adding the following new section to read:

**"§ 130A-485. Vaccination program established; definitions.**

(a) The Department and local health departments shall offer a vaccination program for first responders who may be exposed to infectious diseases when deployed to disaster locations. The vaccinations shall include, but are not limited to, hepatitis A vaccination, hepatitis B vaccination, diphtheria-tetanus vaccination, influenza vaccination, pneumococcal vaccination, and other vaccinations when recommended by the United States Public Health Service and in accordance with Federal Emergency Management Directors Policy. Immune globulin will be made available when necessary, as determined by the State Health Director.

(b) Participation in the vaccination program is voluntary by the first responders, except for first responders who are classified as having "occupational exposure" to bloodborne pathogens as defined by the Occupational Safety and Health Administration Standard contained at 29 C.F.R. § 1910.10300 who shall be required to take the designated vaccinations or otherwise required by law.

(c) Nothing in this section shall require first responders, except first responders for whom the vaccination program is not voluntary as set forth in subsection (b) of this section, who present a written statement from a licensed physician indicating that a vaccine is medically contraindicated for the first responder or who sign a written statement that the administration of a vaccination conflicts with the first responder's religious tenets, to receive a vaccine.

(d) In the event of a vaccine shortage, the State Public Health Director, in consultation with the Centers for Disease Control and Prevention, shall give priority for vaccination to first responders deployed to a disaster location.

(e) The Department shall notify first responders of the availability of the vaccination program and shall provide educational materials on ways to prevent exposure to infectious diseases.

(f) As used in this section, unless the context clearly requires otherwise, the term:

- (1) 'Bioterrorism' means the intentional use of any microorganism, virus, infectious substance, biological product, or biological agent as defined in G.S. 130A-479 that may be engineered as a result of biotechnology or any naturally occurring or bioengineered component of any microorganism, virus, infectious substance, or biological product to cause or attempt to cause death, disease, or other biological malfunction in any living organism.
- (2) 'Disaster location' means any geographical location where a bioterrorism attack, terrorist incident, catastrophic or natural disaster, or emergency occurs.
- (3) 'First responders' means State and local law enforcement personnel, fire department personnel, and emergency medical personnel who will be deployed to bioterrorism attacks, terrorist attacks, catastrophic or natural disasters, or emergencies."

**SECTION 2.** Nothing in this act obligates the General Assembly to appropriate State funds for the implementation of this act. The Department of Health and Human Services shall work with local employers to access, when available, federal funds to implement a vaccination program for first responders as enacted in Section 1 of this act.

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

In the General Assembly read three times and ratified this the 11<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 12:49 p.m. on the 19<sup>th</sup> day of June, 2003.

**H.B. 975**

**Session Law 2003-228**

AN ACT TO PROVIDE PURCHASING FLEXIBILITY FOR THE UNIVERSITY OF NORTH CAROLINA.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 116-13 reads as rewritten:

"§ 116-13. **Powers of Board regarding ~~property~~ property and services subject to general law.**

(a) The power and authority granted to the Board of Governors with regard to the acquisition, operation, maintenance and disposition of real and personal property and services shall be subject to, and exercised in accordance with, the provisions of Chapters 143 and 146 of the General ~~Statutes~~-Statutes and related sections of the North Carolina Administrative Code, except when a purchase is being made that is not covered by a State term contract and either:

- (1) The funds used to procure personal property or services are not moneys appropriated from the General Fund or received as tuition or, in the case of multiple fund sources, moneys appropriated from the General Fund or received as tuition do not exceed thirty percent (30%) of the total funds; or
- (2) The funds used to procure personal property or services are contract and grant funds or, in the case of multiple fund sources, the contract and grant funds exceed fifty percent (50%) of the total funds.

When a special responsibility constituent institution makes a purchase under subdivision (1) or (2) of this subsection, the requirements of Chapter 143, Article 3 shall apply, except the approval or oversight of the Secretary of Administration, the State Purchasing Officer, or the Board of Awards shall not be required, regardless of dollar value.

(b) Special responsibility constituent institutions shall have the authority to purchase equipment, materials, supplies, and services from sources other than those certified by the Secretary of Administration on term contracts, subject to the following conditions:

- (1) The purchase price, including the cost of delivery, is less than the cost under the State term contract;
- (2) The items are the same or substantially similar in quality, service, and performance as items available under State term contracts;
- (3) The cost of the purchase shall not exceed the benchmark established under G.S. 116-31.10; and
- (4) The special responsibility constituent institution notifies the Department of Administration of purchases consistently being made under this provision so that State term contracts may be improved."

**SECTION 2.** This act becomes effective July 1, 2003.

In the General Assembly read three times and ratified this the 11<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 12:50 p.m. on the 19<sup>th</sup> day of June, 2003.

**H.B. 1151**

**Session Law 2003-229**

AN ACT TO AMEND THE ADMINISTRATIVE PROCEDURE ACT TO REVISE THE PROCEDURE FOR ADOPTING PERMANENT AND TEMPORARY RULES, TO CREATE A PROCEDURE FOR THE ADOPTION OF EMERGENCY RULES, TO CLARIFY THE ROLE OF THE RULES REVIEW COMMISSION,

AND TO EXCLUDE THE STATE MEDICAL FACILITIES PLAN FROM THE DEFINITION OF A RULE.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 150B-20(c) reads as rewritten:

"(c) Action. – If an agency denies a rule-making petition, it must send the person who submitted the petition a written statement of the reasons for denying the petition. If an agency grants a rule-making petition, it must inform the person who submitted the rule-making petition of its decision and must initiate rule-making proceedings. When an agency grants a rule-making petition, the ~~notice of rule-making proceedings~~ notice of text it publishes in the North Carolina Register may state that the agency is initiating ~~rule-making proceedings~~ rule making as the result of a rule-making petition and state the name of the person who submitted the rule-making petition. If the rule-making petition requested the creation or amendment of a rule, the notice of text the agency publishes ~~after the notice of rule-making proceedings~~ may set out the text of the requested rule change submitted with the rule-making petition and state whether the agency endorses the proposed text."

**SECTION 2.** G.S. 150B-21.1 reads as rewritten:

"§ **150B-21.1. Procedure for adopting a temporary rule.**

(a) Adoption. – An agency may adopt a temporary rule ~~without prior notice or hearing or upon any abbreviated notice or hearing the agency finds practical~~ when it finds that adherence to the notice and hearing requirements of ~~this Part~~ G.S. 150B-21.2 would be contrary to the public interest and that the immediate adoption of the rule is required by one or more of the following:

- (1) A serious and unforeseen threat to the public health, safety, or welfare.
- (2) The effective date of a recent act of the General Assembly or the United States Congress.
- (3) A recent change in federal or State budgetary policy.
- (4) A recent federal regulation.
- (5) A recent court order.
- (6) The need for the rule to ~~become effective the same date as implement~~ or be made consistent with the State Medical Facilities Plan approved by the Governor, if the rule addresses a matter included in the State Medical Facilities Plan.

~~An agency must prepare a written statement of its findings of need for a temporary rule. If the temporary rule establishes a new fee or increases an existing fee, the agency shall include in the written statement that it has complied with the requirements of G.S. 12-3.1. The statement must be signed by the head of the agency adopting the rule.~~

~~(a1) Notwithstanding the provisions of subsection (a) of this section, the Wildlife Resources Commission may adopt a temporary rule after prior notice or hearing or upon any abbreviated notice or hearing the agency finds practical to protect the public health, safety, or welfare, conserve wildlife resources, or provide for the orderly and efficient operation of game lands by establishing any of the following:~~

- (7) The need for the Wildlife Resources Commission to establish any of the following:
  - (1)a. No wake ~~zones;~~zones.
  - (2)b. Hunting or fishing ~~seasons;~~seasons.
  - (3)c. Hunting or fishing bag ~~limits;~~limits.



- (4)d. Management of public game lands as defined in G.S. 113-129(8a).

~~When the Wildlife Resources Commission adopts a temporary rule pursuant to this subsection, it must submit the reference to this subsection as its statement of need to the Codifier of Rules.~~

~~(a2) Notwithstanding the provisions of subsection (a) of this section, the Secretary of State may adopt temporary rules~~

- ~~(8) The need for the Secretary of State to implement the certification technology provisions of Article 11A of Chapter 66 of the General Statutes and to adopt uniform Statements of Policy that have been officially adopted by the North American Securities Administrators Association for the purpose of promoting uniformity of state securities regulation. After having the proposed temporary rule published in the North Carolina Register and at least 30 days prior to adopting a temporary rule pursuant to this subsection, the Secretary shall:~~

- ~~(1) Notify persons on its mailing list maintained pursuant to G.S. 150B-21.2(d) and any other interested parties of its intent to adopt a temporary rule;~~
- ~~(2) Accept oral and written comments on the proposed temporary rule; and~~
- ~~(3) Hold at least one public hearing on the proposed temporary rule.~~

~~When the Secretary adopts a temporary rule pursuant to this subsection, the Secretary must submit a reference to this subsection as the Secretary's statement of need to the Codifier of Rules.~~

~~Notwithstanding any other provision of this Chapter, the Codifier of Rules shall publish in the North Carolina Register a proposed temporary rule received from the Secretary in accordance with this subsection.~~

~~(a3) Notwithstanding the provisions of subsection (a) of this section, the Commissioner of Insurance may adopt a temporary rule~~

- ~~(9) The need for the Commissioner of Insurance to implement the provisions of G.S. 58-2-205 G.S. 58-2-205 after prior notice or hearing or upon any abbreviated notice or hearing. When the Commissioner adopts a temporary rule pursuant to this subsection, the Commissioner must submit the reference to this subsection as the Commissioner's statement of need to the Codifier of Rules.~~

~~(a4) Notwithstanding the provisions of subsection (a) of this section, the State Chief Information Officer may adopt temporary rules~~

- ~~(10) The need for the Chief Information Officer to implement the information technology procurement provisions of Article 3D of Chapter 147 of the General Statutes. After having the proposed temporary rule published in the North Carolina Register and at least 30 days prior to adopting a temporary rule pursuant to this subsection, the Officer shall:~~

- ~~(1) Notify persons on its mailing list maintained pursuant to G.S. 150B-21.2(d) and any other interested parties of its intent to adopt a temporary rule;~~
- ~~(2) Accept oral and written comments on the proposed temporary rule; and~~
- ~~(3) Hold at least one public hearing on the proposed temporary rule.~~

~~When the Officer adopts a temporary rule pursuant to this subsection, the Officer must submit a reference to this subsection as the Officer's statement of need to the Codifier of Rules.~~

~~Notwithstanding any other provision of this Chapter, the Codifier of Rules shall publish in the North Carolina Register a proposed temporary rule received from the Officer in accordance with this subsection.~~

~~(a5) Notwithstanding the provisions of subsection (a) of this section,~~

~~(11) The need for the State Board of Elections may to adopt a temporary rule after prior notice or hearing or upon any abbreviated notice or hearing the agency finds practical for one or more of the following:~~

~~(1)a. In accordance with the provisions of G.S. 163-22.2.~~

~~(2)b. To implement any provisions of state or federal law for which the State Board of Elections has been authorized to adopt rules.~~

~~(3)c. The need for the rule to become effective immediately in order to preserve the integrity of upcoming elections and the elections process.~~

~~When the State Board of Elections adopts a temporary rule pursuant to this subsection, it must submit the reference to this subsection as its statement of need to the Codifier of Rules.~~

~~(a6) Expiration by Session Laws 2001, ch. 421, s. 5.3, effective June 30, 2002.~~

~~(a7) Notwithstanding the provisions of subdivision (a)(2) of this section,~~

~~(12) The need for an agency may to adopt a temporary rule to implement the provisions of any of the following acts until all rules necessary to implement the provisions of the act have become effective as either temporary or permanent rules:~~

~~(1)a. Repealed by Session Laws 2000, ch. 148, s. 5, effective July 1, 2002.~~

~~(2)b. **(Repealed effective July 1, 2003)** Article 34B of Chapter 115C of the General Statutes, relating to qualified zone academy bonds.~~

~~(a8) **(Expires on June 30, 2003)** Notwithstanding the provisions of subsection (a) of this section,~~

~~(13) The need for the Secretary of Transportation may to adopt temporary rules concerning the permitted height of mobile and modular homes. ~~After having the proposed temporary rule published in the North Carolina Register and at least 30 days prior to adopting a temporary rule pursuant to this subsection, the Secretary shall:~~~~

~~(1) Notify persons on its mailing list maintained pursuant to G.S. 150B-21.2(d) and any other interested parties of its intent to adopt a temporary rule.~~

~~(2) Accept oral and written comments on the proposed temporary rule.~~

~~(3) Hold at least one public hearing on the proposed temporary rule.~~

~~When the Secretary adopts a temporary rule pursuant to this subsection, the Secretary must submit a reference to this subsection as the Secretary's statement of need to the Codifier of Rules.~~

~~Notwithstanding any other provision of this Chapter, the Codifier of Rules shall publish in the North Carolina Register a proposed temporary rule received from the Secretary in accordance with this subsection.~~

~~(a9) (Expires June 30, 2003) Notwithstanding the provisions of subsection (a) of this section,~~

- ~~(14) The need for the Secretary of Transportation may to adopt temporary rules pursuant to G.S. 113A-11(b) to establish a class of minimum criteria projects.~~

~~After having the proposed temporary rule published in the North Carolina Register, and at least 30 days prior to adopting a temporary rule pursuant to this subsection, the Secretary shall do all of the following:~~

- ~~(1) Notify persons on its mailing list, maintained pursuant to G.S. 150B-21.2(d), and any other interested parties, of his intent to adopt a temporary rule.~~  
~~(2) Accept oral and written comments on the proposed temporary rule.~~  
~~(3) Hold at least one public hearing on the proposed temporary rule.~~

~~When the Secretary adopts a temporary rule pursuant to this subsection, the Secretary shall submit a reference to this subsection as the Secretary's statement of need to the Codifier of Rules.~~

~~Notwithstanding any other provision of this Chapter, the Codifier of Rules shall publish in the North Carolina Register a proposed temporary rule received from the Secretary in accordance with this subsection.~~

~~(a10) (Expires on October 1, 2004) Notwithstanding the provisions of subsection (a) of this section,~~

- ~~(15) The need for the Department of Health and Human Services may to adopt temporary rules concerning the placement of individuals in facilities licensed under Article 2 of Chapter 122C of the General Statutes and the enrollment of providers of services to such individuals in the Medicaid program. ~~After having the proposed temporary rule published in the North Carolina Register and at least 30 days prior to adopting a temporary rule pursuant to this subsection, the Department shall:~~~~

- ~~(1) Notify persons on its mailing list maintained pursuant to G.S. 150B-21.2(d) and any other interested parties of its intent to adopt a temporary rule.~~  
~~(2) Accept oral and written comments on the proposed temporary rule.~~  
~~(3) Hold at least one public hearing on the proposed temporary rule.~~

~~When the Department adopts a temporary rule pursuant to this subsection, the Department shall submit a reference to this subsection as the Department's statement of need to the Codifier of Rules.~~

~~Notwithstanding any other provision of this Chapter, the Codifier of Rules shall publish in the North Carolina Register a proposed temporary rule received from the Department in accordance with this subsection.~~

A recent act, change, regulation, or order as used in subdivisions (2) through (5) of this subsection means an act, change, regulation, or order occurring or made effective no more than 210 days prior to the submission of a temporary rule to the Rules Review Commission. Upon written request of the agency, the Commission may waive the 210-day requirement upon consideration of the degree of public benefit, whether the agency had control over the circumstances that required the requested waiver, notice to and opposition by the public, the need for the waiver, and previous requests for waivers submitted by the agency.

(a1) Unless otherwise provided by law, at least 30 business days prior to adopting a temporary rule, the agency shall:

- (1) Submit the rule and a notice of public hearing to the Codifier of Rules, and the Codifier of Rules shall publish the proposed temporary rule and the notice of public hearing on the Internet to be posted within five business days.
- (2) Notify persons on the mailing list maintained pursuant to G.S. 150B-21.2(d) and any other interested parties of its intent to adopt a temporary rule and of the public hearing.
- (3) Accept written comments on the proposed temporary rule for at least 15 business days prior to adoption of the temporary rule.
- (4) Hold at least one public hearing on the proposed temporary rule no less than five days after the rule and notice have been published.

An agency must also prepare a written statement of its findings of need for a temporary rule stating why adherence to the notice and hearing requirements in G.S. 150B-21.2 would be contrary to the public interest and why the immediate adoption of the rule is required. The statement must be signed by the head of the agency adopting the temporary rule.

(b) Review. – When an agency adopts a temporary rule it must submit the rule and the agency's written statement of its findings of the need for the rule to the Codifier of Rules. Rules Review Commission. Within one business day after an agency submits a temporary rule, the Codifier of Rules must review the agency's written statement of findings of need for the rule to determine whether the statement of need meets the criteria listed in subsection (a) or (a1) of this section. Within 15 business days after receiving the proposed temporary rule, the Commission shall review the agency's written statement of findings of need for the rule and the rule to determine whether the statement meets the criteria listed in subsection (a) of this section and the rule meets the standards in G.S. 150B-21.9. The Commission shall direct a member of its staff who is an attorney licensed to practice law in North Carolina to review the statement of findings of need and the rule. The staff member shall make a recommendation to the Commission, which must be approved by the Commission or its designee. The Commission's designee shall be a panel of at least three members of the Commission. In reviewing the statement, the Codifier of Rules Commission or its designee may consider any information submitted by the agency or another person. If the Codifier of Rules Commission or its designee finds that the statement meets the criteria, criteria listed in subsection (a) of this section and the rule meets the standards in G.S. 150B-21.9, the Codifier of Rules must notify the head of the agency and enter the rule in the North Carolina Administrative Code. Commission or its designee must approve the temporary rule and deliver the rule to the Codifier of Rules within two business days of approval. The Codifier of Rules must enter the rule into the North Carolina Administrative Code on the sixth business day following receipt from the Commission or its designee.

If the Codifier of Rules Commission or its designee finds that the statement does not meet the criteria, criteria listed in subsection (a) of this section or that the rule does not meet the standards in G.S. 150B-21.9, the Codifier of Rules Commission or its designee must immediately notify the head of the agency. The agency may supplement its statement of need with additional findings or submit a new statement. If the agency provides additional findings or submits a new statement, the Codifier of Rules Commission or its designee must review the additional findings or new statement within one business day five business days after the agency submits the additional

findings or new statement. If the ~~Codifier of Rules~~Commission or its designee again finds that the statement does not meet the criteria listed in subsection (a) ~~or (a1)~~ of this section, ~~section~~ or that the rule does not meet the standards in G.S. 150B-21.9, the ~~Codifier of Rules~~Commission or its designee must immediately notify the head of the ~~agency~~agency and return the rule to the agency.

If an agency decides not to provide additional findings or submit a new statement when notified by the ~~Codifier of Rules~~Commission or its designee that the agency's findings of need for a rule do not meet the required ~~criteria~~, criteria or that the rule does not meet the required standards, the agency must notify the ~~Codifier of Rules~~Commission or its designee of its decision. ~~The Codifier of Rules must then enter the rule in the North Carolina Administrative Code on the sixth business day after receiving notice of the agency's decision. The Commission or its designee shall then return the rule to the agency. When the Commission returns a rule to an agency in accordance with this subsection, the agency may file an action for declaratory judgment in Wake County Superior Court pursuant to Article 26 of Chapter 1 of the General Statutes.~~ Notwithstanding any other provision of this subsection, if the agency has not complied with the provisions of G.S. 12-3.1, the Codifier of Rules shall not enter the rule into the Code.

(c) Standing. – A person aggrieved by a temporary rule adopted by an agency may file an action for declaratory judgment in Wake County Superior Court pursuant to Article 26 of Chapter 1 of the General Statutes. In the action, the court shall determine whether the agency's written statement of findings of need for the rule meets the criteria listed in subsection (a) ~~or (a1)~~ of this section and whether the rule meets the standards in ~~G.S. 150B-21.9 that apply to review of a permanent rule. G.S. 150B-21.9.~~ The court shall not grant an ex parte temporary restraining order.

Filing a petition for rule making or a request for a declaratory ruling with the agency that adopted the rule is not a prerequisite to filing an action under this subsection. A person who files an action for declaratory judgment under this subsection must serve a copy of the complaint on the agency that adopted the rule being contested, the Codifier of Rules, and the Commission.

(d) Effective Date and Expiration. – A temporary rule becomes effective on the date specified in G.S. 150B-21.3. A temporary rule expires on the earliest of the following dates:

- (1) The date specified in the rule.
- (2) The effective date of the permanent rule adopted to replace the temporary rule, if the Commission approves the permanent rule.
- (3) The date the Commission returns to an agency a permanent rule the agency adopted to replace the temporary rule.
- (4) The effective date of an act of the General Assembly that specifically disapproves a permanent rule adopted to replace the temporary rule.
- (5) 270 days from the date the temporary rule was published in the North Carolina Register, unless the permanent rule adopted to replace the temporary rule has been submitted to the Commission.

(e) Publication. – When the Codifier of Rules enters a temporary rule in the North Carolina Administrative Code, the Codifier must publish the rule in the North Carolina Register. ~~Publication of a temporary rule in the North Carolina Register serves as a notice of rule-making proceedings for a permanent rule if the permanent rule is substantially the same as the published temporary rule, unless the agency published a~~

~~notice of rule making proceedings at least 60 days before it adopted the temporary rule."~~

**SECTION 3.** Part 2 of Article 2A of Chapter 150B of the General Statutes is amended by adding a new section to read:

**"§ 150B-21.1A. Adoption of an emergency rule.**

(a) Adoption. – An agency may adopt an emergency rule without prior notice or hearing or upon any abbreviated notice or hearing the agency finds practical when it finds that adherence to the notice and hearing requirements of this Part would be contrary to the public interest and that the immediate adoption of the rule is required by a serious and unforeseen threat to the public health or safety. When an agency adopts an emergency rule, it must simultaneously commence the process for adopting a temporary rule by submitting the rule to the Codifier of Rules for publication on the Internet in accordance with G.S. 150B-21.1(a1). The Department of Health and Human Services or the appropriate rule-making agency within the Department may adopt emergency rules in accordance with this section when a recent act of the General Assembly or the United States Congress or a recent change in federal regulations authorizes new or increased services or benefits for children and families and the emergency rule is necessary to implement the change in State or federal law.

(b) Review. – An agency must prepare a written statement of its findings of need for an emergency rule. The statement must be signed by the head of the agency adopting the rule. When an agency adopts an emergency rule, it must submit the rule and the agency's written statement of its findings of the need for the rule to the Codifier of Rules. Within two business days after an agency submits an emergency rule, the Codifier of Rules must review the agency's written statement of findings of need for the rule to determine whether the statement of need meets the criteria in subsection (a) of this section. In reviewing the statement, the Codifier of Rules may consider any information submitted by the agency or another person. If the Codifier of Rules finds that the statement meets the criteria, the Codifier of Rules must notify the head of the agency and enter the rule in the North Carolina Administrative Code on the sixth business day following approval by the Codifier of Rules.

If the Codifier of Rules finds that the statement does not meet the criteria in subsection (a) of this section, the Codifier of Rules must immediately notify the head of the agency. The agency may supplement its statement of need with additional findings or submit a new statement. If the agency provides additional findings or submits a new statement, the Codifier of Rules must review the additional findings or new statement within one business day after the agency submits the additional findings or new statement. If the Codifier of Rules again finds that the statement does not meet the criteria in subsection (a) of this section, the Codifier of Rules must immediately notify the head of the agency.

If an agency decides not to provide additional findings or submit a new statement when notified by the Codifier of Rules that the agency's findings of need for a rule do not meet the required criteria, the agency must notify the Codifier of Rules of its decision. The Codifier of Rules must then enter the rule in the North Carolina Administrative Code on the sixth business day after receiving notice of the agency's decision. Notwithstanding any other provision of this subsection, if the agency has not complied with the provisions of G.S. 12-3.1, the Codifier of Rules shall not enter the rule into the Code.

(c) Standing. – A person aggrieved by an emergency rule adopted by an agency may file an action for declaratory judgment in Wake County Superior Court pursuant to

Article 26 of Chapter 1 of the General Statutes. In the action, the court shall determine whether the agency's written statement of findings of need for the rule meets the criteria listed in subsection (a) of this section and whether the rule meets the standards in G.S. 150B-21.9. The court shall not grant an ex parte temporary restraining order.

Filing a petition for rule making or a request for a declaratory ruling with the agency that adopted the rule is not a prerequisite to filing an action under this subsection. A person who files an action for declaratory judgment under this subsection must serve a copy of the complaint on the agency that adopted the rule being contested, the Codifier of Rules, and the Commission.

(d) Effective Date and Expiration. – An emergency rule becomes effective on the date specified in G.S. 150B-21.3. An emergency rule expires on the earliest of the following dates:

- (1) The date specified in the rule.
- (2) The effective date of the temporary rule adopted to replace the emergency rule, if the Commission approves the temporary rule.
- (3) The date the Commission returns to an agency a temporary rule the agency adopted to replace the emergency rule.
- (4) Sixty days from the date the emergency rule was published in the North Carolina Register, unless the temporary rule adopted to replace the emergency rule has been submitted to the Commission.

(e) Publication. – When the Codifier of Rules enters an emergency rule in the North Carolina Administrative Code, the Codifier of Rules must publish the rule in the North Carolina Register."

**SECTION 4.** G.S. 150B-21.2 reads as rewritten:

**"§ 150B-21.2. Procedure for adopting a permanent rule.**

(a) Steps. – Before an agency adopts a permanent rule, it must take the following actions:

- (1) Publish a notice of ~~rule-making proceedings-text~~ in the North Carolina Register, ~~unless the proposed rule is substantially the same as a temporary rule published in the North Carolina Register.~~
- (2) When required by G.S. 150B-21.4, prepare or obtain a fiscal note for the proposed rule.
- ~~(3) Publish the text of the proposed rule in the North Carolina Register.~~
- (4) When required by subsection (e) of this section, hold a public hearing on the proposed rule after publication of the proposed text of the rule.
- (5) Accept oral or written comments on the proposed rule as required by subsection (f) of this section.

~~(b) Notice of Rule-Making Proceedings. – A notice of rule-making proceedings published in the North Carolina Register must include all of the following:~~

- ~~(1) A statement of the subject matter of the proposed rule making.~~
- ~~(2) A short explanation of the reason for the proposed action.~~
- ~~(3) A citation to the law that gives the agency the authority to adopt a rule on the subject matter of the proposed rule making.~~
- ~~(4) The person to whom questions or written comments may be submitted on the subject matter of the proposed rule making.~~

~~Publication in the North Carolina Register of an agency's rule-making agenda satisfies the requirements of this subsection if the agenda includes the information required by this subsection.~~

(c) ~~Text After Notice of Rule-Making Proceedings.~~ Notice of Text. – A notice of the proposed text of a rule must include all of the following:

- (1) The text of the proposed rule.
- (2) A short explanation of the reason for the proposed rule.
- (3) A citation to the law that gives the agency the authority to adopt the rule.
- (4) The proposed effective date of the rule.
- (5) The date, time, and place of any public hearing scheduled on the rule.
- (6) Instructions on how a person may demand a public hearing on a proposed rule if the notice does not schedule a public hearing on the proposed rule and subsection (e) of this section requires the agency to hold a public hearing on the proposed rule when requested to do so.
- (7) The period of time during which and the person to whom written comments may be submitted on the proposed rule.
- (8) If a fiscal note has been prepared for the rule, a statement that a copy of the fiscal note can be obtained from the agency.
- (9) The procedure by which a person can object to a proposed rule and the requirements for subjecting a proposed rule to the legislative review process.

~~An agency shall not publish the proposed text of a rule until at least 60 days after the date the notice of rule-making proceedings for the proposed rule was published in the North Carolina Register.~~

(d) Mailing List. – An agency must maintain a mailing list of persons who have requested notice of rule making. When an agency publishes in the North Carolina Register a notice of ~~rule-making proceedings or the text of a proposed rule~~, it must mail a copy of the notice or text to each person on the mailing list who has requested notice ~~of rule-making proceedings~~ on the subject matter described in the notice or the rule affected. An agency may charge an annual fee to each person on the agency's mailing list to cover copying and mailing costs.

(e) Hearing. – An agency must hold a public hearing on a rule it proposes to adopt if the agency publishes the text of the proposed rule in the North Carolina Register and ~~all the following apply~~:

- (1) ~~The notice of text does not schedule a public hearing on the proposed rule.~~
- (2) ~~The~~the agency receives a written request for a public hearing on the proposed rule within 15 days after the notice of text is published.
- (3) ~~The proposed text is not a changed version of proposed text the agency previously published in the course of rule-making proceedings but did not adopt.~~

An agency may hold a public hearing on a proposed rule in other circumstances. When an agency is required to hold a public hearing on a proposed rule or decides to hold a public hearing on a proposed rule when it is not required to do so, the agency must publish in the North Carolina Register a notice of the date, time, and place of the public hearing. The hearing date of a public hearing held after the agency publishes notice of the hearing in the North Carolina Register must be at least 15 days after the date the notice is published. If notice of a public hearing has been published in the North Carolina Register and that public hearing has been cancelled, the agency shall publish notice in the North Carolina Register at least 15 days prior to the date of any rescheduled hearing.



(f) ~~Comments. – An agency must accept comments on a notice of proposed rule-making proceedings published in the North Carolina Register until the text of the proposed rule that results from the notice is published. An agency must accept comments on the text of a proposed rule that is published in the North Carolina Register and that requires a fiscal note under G.S. 150B-21.4(b1) for at least 60 days after the text is published or until the date of any public hearing held on the proposed rule, whichever is longer. An agency must accept comments on the text of any other proposed rule published in the North Carolina Register for at least 30 days after the text is published or until the date of any public hearing held on the proposed rule, whichever is longer.~~ An agency must consider fully all written and oral comments received.

(g) Adoption. – An agency shall not adopt a rule until the time for commenting on the proposed text of the rule has elapsed and shall not adopt a rule if more than 12 months have elapsed since the end of the time for commenting on the proposed text of the rule. An agency shall not adopt a rule that differs substantially from the text of a proposed rule published in the North Carolina Register unless the agency publishes the text of the proposed different rule in the North Carolina Register and accepts comments on the proposed different rule for the time set in subsection (f) of this section.

An adopted rule differs substantially from a proposed rule if it does one or more of the following:

- (1) Affects the interests of persons who, based on ~~either the notice of rule-making proceedings or the~~ proposed text of the rule published in the North Carolina Register, could not reasonably have determined that the rule would affect their interests.
- (2) Addresses a subject matter or an issue that is not addressed in the proposed text of the rule.
- (3) Produces an effect that could not reasonably have been expected based on the proposed text of the rule.

When an agency adopts a rule, it shall not take subsequent action on the rule without following the procedures in this Part. An agency must submit an adopted rule to the Rules Review Commission within 30 days of the agency's adoption of the rule.

(h) Explanation. – An agency must issue a concise written statement explaining why the agency adopted a rule if, within ~~30-15~~ days after the agency adopts the rule, a person asks the agency to do so. The explanation must state the principal reasons for and against adopting the rule and must discuss why the agency rejected any arguments made or considerations urged against the adoption of the rule. The agency must issue the explanation within 15 days after receipt of the request for an explanation.

(i) Record. – An agency must keep a record of a rule-making proceeding. The record must include all written comments received, a transcript or recording of any public hearing held on the rule, and any written explanation made by the agency for adopting the rule."

**SECTION 5.** G.S. 150B-21.3 reads as rewritten:

"§ 150B-21.3. **Effective date of rules.**

(a) ~~Temporary and Emergency Rule.~~ Rules. – A temporary rule ~~or an emergency rule~~ becomes effective on the date the Codifier of Rules enters the rule in the North Carolina Administrative Code.

(b) Permanent Rule. – A permanent rule approved by the Commission becomes effective on the first day of the month following the month the rule is approved by the Commission, unless the Commission received written objections to the rule in accordance with subsection (b2) of this section.

(b1) Delayed Effective Dates. – If the Commission received written objections to the rule in accordance with subsection (b2) of this section, the rule becomes effective on the earlier of the thirty-first legislative day or the day of adjournment of the next regular session of the General Assembly that begins at least 25 days after the date the Commission approved the rule, unless a different effective date applies under this section. If a bill that specifically disapproves the rule is introduced in either house of the General Assembly before the thirty-first legislative day of that session, the rule becomes effective on the earlier of either the day an unfavorable final action is taken on the bill or the day that session of the General Assembly adjourns without ratifying a bill that specifically disapproves the rule. If the agency adopting the rule specifies a later effective date than the date that would otherwise apply under this subsection, the later date applies. A permanent rule that is not approved by the Commission or that is specifically disapproved by a bill enacted into law before it becomes effective does not become effective.

A bill specifically disapproves a rule if it contains a provision that refers to the rule by appropriate North Carolina Administrative Code citation and states that the rule is disapproved. Notwithstanding any rule of either house of the General Assembly, any member of the General Assembly may introduce a bill during the first 30 legislative days of any regular session to disapprove a rule that has been approved by the Commission and that either has not become effective or has become effective by executive order under subsection (c) of this section.

(b2) Objection. – Any person who objects to the adoption of a permanent rule may submit written comments to the agency. If the objection is not resolved prior to adoption of the rule, a person may submit written objections to the Commission. If the Commission receives written objections from 10 or more persons clearly requesting review by the legislature in accordance with instructions contained in the notice pursuant to G.S. 150B-21.2(c)(9), and the Commission approves the rule, the rule will become effective as provided in subsection (b1) of this section. When the requirements of this subsection have been met and a rule is subject to legislative disapproval, the agency may adopt the rule as a temporary rule if the rule would have met the criteria listed in G.S. 150B-21.1(a) at the time the notice of text for the permanent rule was published in the North Carolina Register.

(c) Executive Order Exception. – The Governor may, by executive order, make effective a permanent rule that has been approved by the Commission ~~and has not become effective under subsection (b)~~ but the effective date of which has been delayed in accordance with subsection (b1) of this section upon finding that it is necessary that the rule become effective in order to protect public health, safety, or welfare. A rule made effective by executive order becomes effective on the date the order is issued or at a later date specified in the order. When the Codifier of Rules enters in the North Carolina Administrative Code a rule made effective by executive order, the entry must reflect this action.

A rule that is made effective by executive order remains in effect unless it is specifically disapproved by the General Assembly in a bill enacted into law on or before the day of adjournment of the regular session of the General Assembly that begins at least 25 days after the date the executive order is issued. A rule that is made effective by executive order and that is specifically disapproved by a bill enacted into law is repealed as of the date specified in the bill. If a rule that is made effective by executive order is not specifically disapproved by a bill enacted into law within the time set by this

subsection, the Codifier of Rules must note this in the North Carolina Administrative Code.

(c1) Fees. – Notwithstanding any other provision of this section, a rule that establishes a new fee or increases an existing fee shall not become effective until the agency has complied with the requirements of G.S. 12-3.1.

(d) Legislative Day and Day of Adjournment. – As used in this section:

- (1) A "legislative day" is a day on which either house of the General Assembly convenes in regular session.
- (2) The "day of adjournment" of a regular session held in an odd-numbered year is the day the General Assembly adjourns by joint resolution for more than 10 days.
- (3) The "day of adjournment" of a regular session held in an even-numbered year is the day the General Assembly adjourns sine die.

(e) OSHA Standard. – A permanent rule concerning an occupational safety and health standard that is adopted by the Occupational Safety and Health Division of the Department of Labor and is identical to a federal regulation promulgated by the Secretary of the United States Department of Labor becomes effective on the date the Division delivers the rule to the Codifier of Rules, unless the Division specifies a later effective date. If the Division specifies a later effective date, the rule becomes effective on that date.

(f) Technical Change. – A permanent rule for which no notice or hearing is required under G.S. 150B-21.5(a)(1) through (a)(5) or G.S. 150B-21.5(b) becomes effective on the first day of the month following the month the rule is approved by the Rules Review Commission."

**SECTION 6.** G.S. 150B-21.4(b1) reads as rewritten:

"(b1) Substantial Economic Impact. – Before an agency publishes in the North Carolina Register the proposed text of a permanent rule change that would have a substantial economic impact and that is not identical to a federal regulation that the agency is required to adopt, the agency must obtain a fiscal note for the proposed rule change from the Office of State Budget and Management or prepare a fiscal note for the proposed rule change and have the note approved by that Office. If an agency requests the Office of State Budget and Management to prepare a fiscal note for a proposed rule change, that Office must prepare the note within 90 days after receiving a written request for the note. If the Office of State Budget and Management fails to prepare a fiscal note within this time period, the agency proposing the rule change may prepare a fiscal note. A fiscal note prepared in this circumstance does not require approval of the Office of State Budget and Management.

If an agency prepares the required fiscal note, the agency must submit the note to the Office of State Budget and Management for review. The Office of State Budget and Management must review the fiscal note within 14 days after it is submitted and either approve the note or inform the agency in writing of the reasons why it does not approve the fiscal note. After addressing these reasons, the agency may submit the revised fiscal note to that Office for its review. If an agency is not sure whether a proposed rule change would have a substantial economic impact, the agency may ask the Office of State Budget and Management to determine whether the proposed rule change has a substantial economic impact.

As used in this subsection, the term "substantial economic impact" means an aggregate financial impact on all persons affected of at least ~~five million dollars (\$5,000,000)~~ three million dollars (\$3,000,000) in a 12-month period."

**SECTION 7.** G.S. 150B-21.5 reads as rewritten:

"§ **150B-21.5. Circumstances when notice and rule-making hearing not required.**

(a) Amendment. – An agency is not required to publish a notice of ~~rule-making proceedings or a notice of~~ text in the North Carolina Register or hold a public hearing when it proposes to amend a rule to do one of the following:

- (1) Reletter or renumber the rule or subparts of the rule.
- (2) Substitute one name for another when an organization or position is renamed.
- (3) Correct a citation in the rule to another rule or law when the citation has become inaccurate since the rule was adopted because of the repeal or renumbering of the cited rule or law.
- (4) Change information that is readily available to the public, such as an address or a telephone number.
- (5) Correct a typographical error in the North Carolina Administrative Code.
- (6) Change a rule in response to a request or an objection by the ~~Commission.~~ Commission, unless the Commission determines that the change is substantial.

(b) Repeal. – An agency is not required to publish a notice of ~~rule-making proceedings or a notice of~~ text in the North Carolina Register or hold a public hearing when it proposes to repeal a rule as a result of any of the following:

- (1) The law under which the rule was adopted is repealed.
- (2) The law under which the rule was adopted or the rule itself is declared unconstitutional.
- (3) The rule is declared to be in excess of the agency's statutory authority.

(c) OSHA Standard. – The Occupational Safety and Health Division of the Department of Labor is not required to publish a notice of ~~rule-making proceedings or a notice of~~ text in the North Carolina Register or hold a public hearing when it proposes to adopt a rule that concerns an occupational safety and health standard and is identical to a federal regulation promulgated by the Secretary of the United States Department of Labor. The Occupational Safety and Health Division is not required to submit to the Commission for review a rule for which notice and hearing is not required under this subsection.

(d) State Building Code. – The Building Code Council is not required to publish a notice of text in the North Carolina Register when it proposes to adopt a rule that concerns the North Carolina State Building Code. The Building Code Council is required to publish a notice of ~~rule-making proceeding~~ in the North Carolina Register when it proposes to adopt a rule that concerns the North Carolina State Building Code. The notice must include all of the following:

- (1) A statement of the subject matter of the proposed rule making.
- (2) A short explanation of the reason for the proposed action.
- (3) A citation to the law that gives the agency the authority to adopt a rule on the subject matter of the proposed rule making.
- (4) The person to whom questions or written comments may be submitted on the subject matter of the proposed rule making.

The Building Code Council is required to submit to the Commission for review a rule for which notice ~~and hearing~~ of text is not required under this subsection. In adopting a rule, the Council shall comply with the procedural requirements of G.S. 150B-21.3."

**SECTION 8.** G.S. 150B-21.8 reads as rewritten:

"§ **150B-21.8. Review of rule by Commission.**

(a) ~~Temporary—Emergency Rule.~~ – The Commission does not review a ~~temporary~~an emergency rule.

(b) ~~Temporary and Permanent Rule.—Rules.~~ – An agency must submit a ~~temporary and permanent rule—rules~~ adopted by it to the Commission before the rule can be included in the North Carolina Administrative Code. The Commission reviews a ~~temporary or permanent rule~~ in accordance with the standards in G.S. 150B-21.9 and follows the procedure in this Part in its review of a ~~permanent~~-rule.

(c) Scope. – When the Commission reviews an amendment to a permanent rule, it may review the entire rule that is being amended. The procedure in G.S. 150B-21.12 applies when the Commission objects to a part of a permanent rule that is within its scope of review but is not changed by a rule amendment.

(d) Judicial Review. – When the Commission returns a permanent rule to an agency in accordance with G.S. 150B-21.12(d), the agency may file an action for declaratory judgment in Wake County Superior Court pursuant to Article 26 of Chapter 1 of the General Statutes."

**SECTION 9.** G.S. 150B-21.9 reads as rewritten:

"§ **150B-21.9. Standards and timetable for review by Commission.**

(a) Standards. – The Commission must determine whether a rule meets all of the following criteria:

- (1) It is within the authority delegated to the agency by the General Assembly.
- (2) It is clear and unambiguous.
- (3) It is reasonably necessary to ~~fulfill a duty delegated to the agency by~~ implement or interpret an enactment of the General Assembly, or of Congress, or a regulation of a federal agency. when considered in light of ~~The Commission shall consider~~ the cumulative effect of all rules adopted by the agency related to the specific purpose for which the rule is ~~proposed and the legislative intent of the General Assembly in delegating the duty proposed.~~
- (4) It was adopted in accordance with Part 2 of this Article.

The Commission shall not consider questions relating to the quality or efficacy of the rule but shall restrict its review to determination of the standards set forth in this subsection.

~~The Commission may determine if a rule submitted to it was adopted in accordance with Part 2 of this Article.~~ The Commission may ask the Office of State Budget and Management to determine if a rule has a substantial economic impact and is therefore required to have a fiscal note. The Commission must ask the Office of State Budget and Management to make this determination if a fiscal note was not prepared for a rule and the Commission receives a written request for a determination of whether the rule has a substantial economic impact.

~~The Commission must notify the agency that adopted the rule if it determines that a rule was not adopted in accordance with Part 2 of this Article and must return the rule to the agency.~~ (a1) Entry of a rule in the North Carolina Administrative Code after review

by the Commission ~~is conclusive evidence~~ creates a rebuttable presumption that the rule was adopted in accordance with Part 2 of this Article.

(b) Timetable. – The Commission must review a permanent rule submitted to it on or before the twentieth of a month by the last day of the next month. The Commission must review a rule submitted to it after the twentieth of a month by the last day of the second subsequent month. The Commission must review a temporary rule in accordance with the timetable and procedure set forth in G.S. 150B-21.1."

**SECTION 10.** G.S. 150B-21.12(c) reads as rewritten:

"(c) Changes. – When an agency changes a rule in response to an objection by the Commission, the Commission must determine whether the change satisfies the Commission's objection. If it does, the Commission must approve the rule. If it does not, the Commission must send the agency a written statement of the Commission's continued objection and the reason for the continued objection. The Commission must also determine whether the change is substantial. In making this determination, the Commission shall use the standards set forth in G.S. 150B-21.2(g). If the change is substantial, the revised rule shall be published and reviewed in accordance with the procedure set forth in G.S. 150B-21.1(a1) and (b)."

**SECTION 11.** G.S. 150B-21.17(a) reads as rewritten:

"(a) Content. – The Codifier of Rules must publish the North Carolina Register. The North Carolina Register must be published at least two times a month and must contain the following:

- (1) Temporary rules entered in the North Carolina Administrative Code.
- (1a) ~~Notices of rule making proceedings, the~~ The text of proposed rules, rules and the text of permanent rules approved by the Commission. Except with regard to notices of rule making proceedings, this subdivision does not apply to the North Carolina State Building Code.
- (1b) Emergency rules entered into the North Carolina Administrative Code.
- (2) Notices of receipt of a petition for municipal incorporation, as required by G.S. 120-165.
- (3) Executive orders of the Governor.
- (4) Final decision letters from the United States Attorney General concerning changes in laws that affect voting in a jurisdiction subject to section 5 of the Voting Rights Act of 1965, as required by G.S. 120-30.9H.
- (5) Orders of the Tax Review Board issued under G.S. 105-241.2.
- (6) Other information the Codifier determines to be helpful to the public."

**SECTION 12.** G.S. 150B-2(8a) reads as rewritten:

"(8a) "Rule" means any agency regulation, standard, or statement of general applicability that implements or interprets an enactment of the General Assembly or Congress or a regulation adopted by a federal agency or that describes the procedure or practice requirements of an agency. The term includes the establishment of a fee and the amendment or repeal of a prior rule. The term does not include the following:

- a. Statements concerning only the internal management of an agency or group of agencies within the same principal office or department enumerated in G.S. 143A-11 or 143B-6, including policies and procedures manuals, if the statement does not directly or substantially affect the procedural or substantive

- rights or duties of a person not employed by the agency or group of agencies.
- b. Budgets and budget policies and procedures issued by the Director of the Budget, by the head of a department, as defined by G.S. 143A-2 or G.S. 143B-3, by an occupational licensing board, as defined by G.S. 93B-1, or by the State Board of Elections.
  - c. Nonbinding interpretative statements within the delegated authority of an agency that merely define, interpret, or explain the meaning of a statute or rule.
  - d. A form, the contents or substantive requirements of which are prescribed by rule or statute.
  - e. Statements of agency policy made in the context of another proceeding, including:
    - 1. Declaratory rulings under G.S. 150B-4.
    - 2. Orders of establishing or fixing rates or tariffs.
  - f. Requirements, communicated to the public by the use of signs or symbols, concerning the use of public roads, bridges, ferries, buildings, or facilities.
  - g. Statements that set forth criteria or guidelines to be used by the staff of an agency in performing audits, investigations, or inspections; in settling financial disputes or negotiating financial arrangements; or in the defense, prosecution, or settlement of cases.
  - h. Scientific, architectural, or engineering standards, forms, or procedures, including design criteria and construction standards used to construct or maintain highways, bridges, or ferries.
  - i. Job classification standards, job qualifications, and salaries established for positions under the jurisdiction of the State Personnel Commission.
  - j. Establishment of the interest rate that applies to tax assessments under G.S. 105-241.1 and the variable component of the excise tax on motor fuel under G.S. 105-449.80.
  - k. The State Medical Facilities Plan, if the Plan has been prepared with public notice and hearing as provided in G.S. 131E-176(25), reviewed by the Commission for compliance with G.S. 131E-176(25), and approved by the Governor."

**SECTION 13.** G.S. 131E-176(25) reads as rewritten:

"(25) "State Medical Facilities Plan" means the plan prepared by the Department of Health and Human Services and the North Carolina State Health Coordinating Council, and approved by the Governor. In preparing the Plan, the Department and the State Health Coordinating Council shall maintain a mailing list of persons who have requested notice of public hearings regarding the Plan. Not less than 15 days prior to a scheduled public hearing, the Department shall notify persons on its mailing list of the date, time, and location of the hearing. The Department shall hold at least one public hearing prior to the adoption of the proposed Plan and at least six public hearings after the adoption of the proposed Plan by the State Health Coordinating

Council. The Council shall accept oral and written comments from the public concerning the Plan."

**SECTION 14.** Nothing in this act shall be construed to limit or repeal any specific grant of temporary rule-making authority to an agency enacted by the General Assembly prior to the effective date of this act.

**SECTION 15.** This act becomes effective July 1, 2003, and applies to temporary and emergency rules adopted on or after that date and to permanent rules adopted on or after October 1, 2003. G.S. 150B-21.9(a1), as amended by Section 9 of this act, applies only to rules adopted on or after the effective date of this act.

In the General Assembly read three times and ratified this the 12<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 12:50 p.m. on the 19<sup>th</sup> day of June, 2003.

**S.B. 424****Session Law 2003-230**

AN ACT TO AMEND THE LAW CONCERNING TUITION WAIVERS AND TO DIRECT THE JOINT LEGISLATIVE EDUCATION OVERSIGHT COMMITTEE TO STUDY WHETHER TO EXTEND THESE TUITION WAIVERS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Section 6 of S.L. 1997-505 reads as rewritten:

"Section 6. This act becomes effective ~~October 1, 1997, and applies to deaths or disabilities occurring~~ July 1, 2003, and applies to persons enrolled in constituent institutions of The University of North Carolina and community colleges on or after that date."

**SECTION 2.** G.S. 115B-2 reads as rewritten:

"§ 115B-2. Tuition waiver authorized.

~~State supported institutions of higher education, community colleges, industrial education centers and technical institutes,~~

(a) The constituent institutions of The University of North Carolina and the community colleges as defined in G.S. 115D-2(2) shall permit the following persons to attend classes for credit or noncredit purposes without the required payment of tuition; provided, however, that such persons meet admission and other standards deemed appropriate by the educational institution, and provided further that such persons shall be accepted by the constituent institutions of the University of North Carolina only on a spaces available basis: ~~tuition:~~

- (1) Legal residents of North Carolina who have attained the age of 65.
- (2) Any person who is the survivor of a law enforcement officer, firefighter, volunteer firefighter, or rescue squad worker killed as a direct result of a traumatic injury sustained in the line of duty.
- (3) The spouse of a law enforcement officer, firefighter, volunteer firefighter, or rescue squad worker who is permanently and totally disabled as a direct result of a traumatic injury sustained in the line of duty.
- (4) Any child, if the child is at least 17 years old but not yet 23 years old, whose parent is a law enforcement officer, firefighter, volunteer firefighter, or rescue squad worker who is permanently and totally disabled as a direct result of a traumatic injury sustained in the line of



duty. However, a child's eligibility for a waiver of tuition under this Chapter shall not exceed: (i) 48 months, if the child is seeking a baccalaureate degree, or (ii) if the child is not seeking a baccalaureate degree, the number of months required to complete the educational program to which the child is applying.

(b) Persons eligible for the tuition waiver under subsection (a) of this section must meet admission and other standards considered appropriate by the educational institution. In addition, the constituent institutions of The University of North Carolina shall accept these persons only on a space available basis."

**SECTION 3.** G.S. 115B-3 reads as rewritten:

"§ **115B-3. ~~Rules and regulations.~~ Rules.**

The Board of Governors of ~~the~~The University of North Carolina and the State Board of ~~Education~~Community Colleges shall each, with respect to the institutions governed by it, promulgate rules ~~and regulations~~necessary for the implementation of ~~the provisions of this Chapter.~~"

**SECTION 4.** The Joint Legislative Education Oversight Committee shall study whether to extend the tuition waivers under Chapter 115B of the General Statutes. In particular, the Committee shall consider whether the waivers should be made available (i) to law enforcement officers, firefighters, volunteer firefighters, or rescue squad workers who are permanently and totally disabled as a direct result of a traumatic injury sustained in the line of duty and (ii) to their children, regardless of the age of the children either at the time of the injury or enrollment. The Committee shall report to the General Assembly by April 15, 2004, on its findings and recommendations.

**SECTION 5.** This act becomes effective July 1, 2003.

In the General Assembly read three times and ratified this the 12<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 12:51 p.m. on the 19<sup>th</sup> day of June, 2003.

**S.B. 437**

**Session Law 2003-231**

AN ACT TO ALLOW A PLUMBING AND HEATING CONTRACTOR OR AN ELECTRICAL CONTRACTOR LICENSED UNDER CHAPTER 87 OF THE GENERAL STATUTES TO BID AND CONTRACT DIRECTLY WITH THE OWNER OF A PUBLIC BUILDING PROJECT IN CERTAIN CIRCUMSTANCES.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Chapter 87 of the General Statutes is amended by adding a new section to read:

"§ **87-1.1. Exception for licensees under Article 2 or 4.**

G.S. 87-1 shall not apply to a licensee under Article 2 or 4 of this Chapter of the General Statutes when the licensee is bidding and contracting directly with the owner of a public building project if: (i) a licensed general contractor performs all work that falls within the classifications in G.S. 87-10(b) and the State Licensing Board of General Contractor's rules; and (ii) the total amount of the work classified does not exceed a percentage of the total bid price pursuant to rules established by the Board."

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

In the General Assembly read three times and ratified this the 12<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 12:52 p.m. on the 19<sup>th</sup> day of June, 2003.

**S.B. 549**

**Session Law 2003-232**

AN ACT TO ADOPT THE REVISED UNIFORM PRINCIPAL AND INCOME ACT.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Chapter 37 of the General Statutes is repealed.

**SECTION 2.** The General Statutes are amended by adding a new Chapter to read:

**"Chapter 37A.**

**"Uniform Principal and Income Act.**

**"Article 1.**

**"Definitions and Fiduciary Duties; Conversion to Unitrust; Judicial Control of Discretionary Power.**

**"Part 1. Definitions.**

**"§ 37A-1-101. Short title.**

This Chapter may be cited as the Uniform Principal and Income Act.

**"§ 37A-1-102. Definitions.**

The following definitions apply in this Chapter:

- (1) "Accounting period" means a calendar year unless another 12-month period is selected by a fiduciary. The term includes a portion of a calendar year or other 12-month period that begins when an income interest begins or ends when an income interest ends.
- (2) "Beneficiary" includes, in the case of a decedent's estate, an heir, legatee, and devisee and, in the case of a trust, an income beneficiary and a remainder beneficiary.
- (3) "Fiduciary" means a personal representative or a trustee. The term includes an executor, administrator, successor personal representative, special administrator, and a person performing substantially the same function.
- (4) "Income" means money or property that a fiduciary receives as current return from a principal asset. The term includes a portion of receipts from a sale, exchange, or liquidation of a principal asset, to the extent provided in Article 4 of this Chapter.
- (5) "Income beneficiary" means a person to whom net income of a trust is or may be payable.
- (6) "Income interest" means the right of an income beneficiary to receive all or part of net income, whether the terms of the trust require it to be distributed or authorize it to be distributed in the trustee's discretion.
- (7) "Mandatory income interest" means the right of an income beneficiary to receive net income that the terms of the trust require the fiduciary to distribute.
- (8) "Net income" means the total receipts allocated to income during an accounting period minus the disbursements made from income during

- the period, plus or minus transfers under this Chapter to or from income during the period.
- (9) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, or government; governmental subdivision, agency, or instrumentality; public corporation, or any other legal or commercial entity.
  - (10) "Principal" means property held in trust for distribution to a remainder beneficiary when the trust terminates.
  - (11) "Remainder beneficiary" means a person entitled to receive principal when an income interest ends.
  - (12) "Terms of a trust" means the manifestation of the intent of a settlor or decedent with respect to the trust, expressed in a manner that admits of its proof in a judicial proceeding, whether by written or spoken words or by conduct.
  - (13) "Trustee" includes an original, additional, or successor trustee, whether or not appointed or confirmed by a court.

**"§ 37A-1-103. Fiduciary duties; general principles.**

(a) In allocating receipts and disbursements to or between principal and income, and with respect to any matter within the scope of Articles 2 and 3 of this Chapter, a fiduciary:

- (1) Shall administer a trust or estate in accordance with the terms of the trust or the will, even if there is a different provision in this Chapter;
- (2) May administer a trust or estate by the exercise of a discretionary power of administration given to the fiduciary by the terms of the trust or the will, even if the exercise of the power produces a result different from a result required or permitted by this Chapter;
- (3) Shall administer a trust or estate in accordance with this Chapter if the terms of the trust or the will do not contain a different provision or do not give the fiduciary a discretionary power of administration; and
- (4) Shall add a receipt or charge a disbursement to principal to the extent that the terms of the trust and this Chapter do not provide a rule for allocating the receipt or disbursement to or between principal and income.

(b) In exercising the power to adjust under G.S. 37A-1-104(a), any discretionary power in connection with the conversion or administration of a unitrust under Part 2 of this Article, or a discretionary power of administration regarding a matter within the scope of this Chapter, whether granted by the terms of a trust, a will, or this Chapter, a fiduciary shall administer a trust or estate impartially, based on what is fair and reasonable to all of the beneficiaries, except to the extent that the terms of the trust or the will clearly manifest an intention that the fiduciary shall or may favor one or more of the beneficiaries. A determination in accordance with this Chapter is presumed to be fair and reasonable to all of the beneficiaries.

(c) The exercise of powers of allocation of receipts and expenditures contained or incorporated by reference to G.S. 32-27(29) in wills dated prior to January 1, 2004, shall continue to be valid.

**"§ 37A-1-104. Trustee's power to adjust.**

(a) A trustee may adjust between principal and income to the extent the trustee considers necessary if the trustee invests and manages trust assets as a prudent investor, the terms of the trust describe the amount that may or shall be distributed to a

beneficiary by referring to the trust's income, and the trustee determines, after applying the rules in G.S. 37A-1-103(a), that the trustee is unable to comply with G.S. 37A-1-103(b). In lieu of exercising the power to adjust, the trustee may convert the trust to a unitrust as permitted under Part 2 of this Article, in which case the unitrust amount shall become the net income of the trust.

(b) In deciding whether and to what extent to exercise the power conferred by subsection (a) of this section, a trustee shall consider all factors relevant to the trust and its beneficiaries, including the following factors to the extent they are relevant:

- (1) The nature, purpose, and expected duration of the trust;
- (2) The intent of the grantor or settlor;
- (3) The identity and circumstances of the beneficiaries;
- (4) The needs for liquidity, regularity of income, and preservation and appreciation of capital;
- (5) The assets held in the trust; the extent to which they consist of financial assets, interests in closely held enterprises, tangible and intangible personal property, or real property; the extent to which an asset is used by a beneficiary; and whether an asset was purchased by the trustee or received from the settlor;
- (6) The net amount allocated to income under the other sections of this Chapter and the increase or decrease in the value of the principal assets, which the trustee may estimate as to assets for which market values are not readily available;
- (7) Whether and to what extent the terms of the trust give the trustee the power to invade principal or accumulate income or prohibit the trustee from invading principal or accumulating income, and the extent to which the trustee has exercised a power from time to time to invade principal or accumulate income;
- (8) The actual and anticipated effect of economic conditions on principal and income and effects of inflation and deflation; and
- (9) The anticipated tax consequences of an adjustment.

(c) A trustee shall not make an adjustment:

- (1) That diminishes the income interest in a trust that requires all of the income to be paid at least annually to a spouse and for which an estate tax or gift tax marital deduction would be allowed, in whole or in part, if the trustee did not have the power to make the adjustment;
- (2) That reduces the actuarial value of the income interest in a trust to which a person transfers property with the intent to qualify for a gift tax exclusion;
- (3) That changes the amount payable to a beneficiary as a fixed annuity or a fixed fraction of the value of the trust assets;
- (4) From any amount that is permanently set aside for charitable purposes under a will or the terms of a trust unless both income and principal are so set aside;
- (5) If possessing or exercising the power to make an adjustment causes an individual to be treated as the owner of all or part of the trust for income tax purposes and the individual would not be treated as the owner if the trustee did not possess the power to make an adjustment;
- (6) If possessing or exercising the power to make an adjustment causes all or part of the trust assets to be included for estate tax purposes in the

estate of an individual who has the power to remove a trustee or appoint a trustee, or both, and the assets would not be included in the estate of the individual if the trustee did not possess the power to make an adjustment;

- (7) If the trustee is a beneficiary of the trust;
- (8) If the trustee is not a beneficiary but the adjustment would benefit the trustee directly or indirectly; or
- (9) If the trust has been converted to, and is then operating as, a unitrust under Part 2 of this Article.

(d) If subdivision (5), (6), (7), or (8) of subsection (c) of this section applies to a trustee and there is more than one trustee, a cotrustee to whom the provision does not apply may make the adjustment unless the exercise of the power by the remaining trustee or trustees is not permitted by the terms of the trust.

(e) A trustee may renounce the entire power conferred by subsection (a) of this section or may renounce only the power to adjust from income to principal or the power to adjust from principal to income if the trustee is uncertain about whether possessing or exercising the power will cause a result described in subdivisions (1) through (6) or subdivision (8) of subsection (c) of this section or if the trustee determines that possessing or exercising the power will or may deprive the trust of a tax benefit or impose a tax burden not described in subsection (c) of this section. The renunciation may be permanent or for a specified period, including a period measured by the life of an individual.

(f) Terms of a trust that limit the power of a trustee to make an adjustment between principal and income do not affect the application of this section unless it is clear from the terms of the trust that the terms are intended to deny the trustee the power of adjustment conferred by subsection (a) of this section.

"Part 2. Conversion to Unitrust.

**"§ 37A-1-104.1. Definitions.**

For purposes of this Part:

- (1) "Code" means the Internal Revenue Code of 1986, as amended from time to time, and any statutory enactment successor to the Code; reference to a specific section of the Code in this Part shall be considered a reference also to any successor provision dealing with the subject matter of that section of the Code.
- (2) "Competent beneficiary" includes:
  - a. A beneficiary who has attained the age of 18 and is not otherwise under a legal disability;
  - b. A court-appointed guardian of an incompetent beneficiary;
  - c. An attorney-in-fact or agent under a durable power of attorney for an incompetent beneficiary;
  - d. A court-appointed guardian of a minor beneficiary's estate; and
  - e. In the case of a minor beneficiary for whom no guardian has been appointed, a parent of the minor beneficiary, but only if the parent does not have an interest in the estate or trust that conflicts with the interest of the minor beneficiary.
- (3) "Grantor" means an individual who created an inter vivos trust.
- (4) "Disinterested person" means a person who is not a related or subordinate party with respect to the person then acting as trustee of

- the trust and excludes the grantor of the trust and any interested trustee.
- (5) "Income trust" means a trust, created by either an inter vivos or a testamentary instrument, which directs or permits the trustee to distribute the net income of the trust to one or more persons, either in fixed proportions or in amounts or proportions determined by the trustee. Notwithstanding the foregoing, no trust that may be subject to taxation under section 2001 or section 2501 of the Code shall be an income trust for purposes of this Part, until the expiration of the period for filing the return therefor, including all extensions for the filing.
- (6) "Interested distributee" means a person to whom distributions of income or principal can currently be made who has the power to remove the existing trustee and designate as successor a person who may be a related or subordinate party with respect to that distributee.
- (7) "Interested trustee" means (i) an individual trustee to whom the net income or principal of the trust can currently be distributed or would be distributed if the trust were then to terminate and be distributed, (ii) any trustee who may be removed and replaced by an interested distributee, or (iii) an individual trustee whose legal obligation to support a beneficiary may be satisfied by distributions of income and principal of the trust.
- (8) "Related or subordinate party" means a related or subordinate party as defined in section 672(c) of the Code.
- (9) "Total return unitrust" means an income trust that has been converted under and meets the provisions of this Part.
- (10) "Trustee" means any person acting as trustee of the trust, except as otherwise expressly provided in this Part, whether acting in that person's discretion or on the direction of one or more persons acting in a fiduciary capacity.
- (11) "Unitrust amount" means an amount computed as a percentage of the fair market value of the trust.

**"§ 37A-1-104.2. Conversion in trustee's discretion without court approval.**

(a) Any trustee, other than an interested trustee, or, where two or more persons are acting as trustees, a majority of the trustees who are not interested trustees (in either case hereafter "trustee"), may, in the trustee's sole discretion and without court approval, (i) convert an income trust to a total return unitrust, (ii) reconvert a total return unitrust to an income trust, or (iii) change the percentage used to calculate the unitrust amount or the method used to determine the fair market value of the trust if:

- (1) The trustee adopts a written policy for the trust providing (i) in the case of a trust being administered as an income trust, that future distributions from the trust will be unitrust amounts rather than net income, (ii) in the case of a trust being administered as a total return unitrust, that future distributions from the trust will be net income rather than unitrust amounts, or (iii) that the percentage used to calculate the unitrust amount or the method used to determine the fair market value of the trust will be changed as stated in the policy;
- (2) The trustee sends written notice of its intention to take the action, along with copies of the written policy and this Part, to (i) the grantor of the trust, if living, (ii) all the competent beneficiaries who are

currently receiving or eligible to receive distributions of income of the trust, (iii) all the competent beneficiaries who would receive principal of the trust if the trust were to terminate at the time of the giving of the notice (without regard to the exercise of any power of appointment), and (iv) all persons acting as advisor or protector of the trust;

- (3) There is at least one competent beneficiary who is currently receiving or eligible to receive distributions of income of the trust and there is at least one competent beneficiary who would receive principal of the trust if the trust were to terminate at the time of the giving of the notice; and
- (4) No person receiving notice of the trustee's intention to take the proposed action of the trustee objects to the action within 60 days of receipt of the notice by written instrument delivered to the trustee.

(b) If there is no trustee of the trust other than an interested trustee, the interested trustee or, where two or more persons are acting as trustee and are interested trustees, a majority of the interested trustees may, in its sole discretion and without court approval, (i) convert an income trust to a total return unitrust, (ii) reconvert a total return unitrust to an income trust, or (iii) change the percentage used to calculate the unitrust amount or the method used to determine the fair market value of the trust if:

- (1) The trustee adopts a written policy for the trust providing (i) in the case of a trust being administered as an income trust, that future distributions from the trust will be unitrust amounts rather than net income as determined under this Chapter, (ii) in the case of a trust being administered as a total return unitrust, that future distributions from the trust will be net income as determined under this Chapter rather than unitrust amounts, or (iii) that the percentage used to calculate the unitrust amount or the method used to determine the fair market value of the trust will be changed as stated in the policy;
- (2) The trustee appoints a disinterested person who, in its sole discretion but acting in a fiduciary capacity, determines for the trustee (i) the percentage to be used to calculate the unitrust amount, (ii) the method to be used in determining the fair market value of the trust, and (iii) which assets, if any, are to be excluded in determining the unitrust amount;
- (3) The trustee sends written notice of its intention to take the action, along with copies of the written policy and this Part, and the determinations of the disinterested person to (i) the grantor of the trust, if living, (ii) all the competent beneficiaries who are currently receiving or eligible to receive distributions of income of the trust, (iii) all the competent beneficiaries who would receive principal of the trust if the trust were to terminate at the time of the giving of the notice (without regard to the exercise of any power of appointment), and (iv) all persons acting as advisor or protector of the trust;
- (4) There is at least one competent beneficiary who is currently receiving or eligible to receive distributions of income of the trust and there is at least one competent beneficiary who would receive principal of the trust if the trust were to terminate at the time of the giving of the notice; and

- (5) No person receiving notice of the trustee's intention to take the proposed action of the trustee objects to the action or to the determination of the disinterested person within 60 days of receipt of the notice by written instrument delivered to the trustee.

**"§ 37A-1-104.3. Conversion with court approval.**

(a) If any trustee desires to (i) convert an income trust to a total return unitrust, (ii) reconvert a total return unitrust to an income trust, or (iii) change the percentage used to calculate the unitrust amount or the method used to determine the fair market value of the trust but does not have the ability to or elects not to do it under G.S. 36A-1-104.2, the trustee may petition the court for an order as the trustee considers appropriate. In the event, however, there is only one trustee of the trust and the trustee is an interested trustee or in the event there are two or more trustees of the trust and a majority of them are interested trustees, the court, in its own discretion or on the petition of the trustee or trustees or any person interested in the trust, may appoint a disinterested person who, acting in a fiduciary capacity, shall present information to the court as shall be necessary to enable the court to make its determinations under this Part.

(b) A competent beneficiary may request the trustee to (i) convert an income trust to a total return unitrust, (ii) reconvert a total return unitrust to an income trust, or (iii) change the percentage used to calculate the unitrust amount or the method used to determine the fair market value of the trust. If the trustee does not take the action requested, the competent beneficiary may petition the court to order the trustee to take the action.

(c) All proceedings under this section shall be conducted as provided in Article 3 of Chapter 36A of the General Statutes.

**"§ 37A-1-104.4. Determination of unitrust amount.**

(a) The fair market value of the trust shall be determined at least annually, using a valuation date selected by the trustee in its discretion. The trustee, in its discretion, may use an average of the fair market value on the same valuation date for the current fiscal year and not more than three preceding fiscal years, if the use of this average appears desirable to reduce the impact of fluctuations in market value on the unitrust amount. Assets for which a fair market value cannot be readily ascertained shall be valued using valuation methods as are considered reasonable and appropriate by the trustee. These assets may be excluded from valuation, provided all income received with respect to these assets is distributed to the extent distributable in accordance with the terms of the governing instrument.

(b) The percentage to be used in determining the unitrust amount shall be a reasonable current return from the trust, in any event not less than three percent (3%) nor more than five percent (5%), taking into account the intentions of the grantor of the trust as expressed in the governing instrument, the needs of the beneficiaries, general economic conditions, projected current earnings and appreciation for the trust, and projected inflation and its impact on the trust.

(c) In the case of a trust (i) for which a marital deduction has been taken for federal tax purposes under section 2056 or section 2523 of the Code (during the lifetime of the spouse for whom the trust was created) or (ii) a trust to which the generation-skipping transfer tax due under section 2601 of the Code does not apply by reason of any effective date or transition rule, the unitrust amount in any taxable year shall not be less than the net income of the trust, determined without regard to subsection (d) of this section.



(d) Following the conversion of an income trust to a total return unitrust, the trustee:

- (1) Shall treat the unitrust amount as if it were net income of the trust for purposes of determining the amount available, from time to time, for distribution from the trust; and
- (2) May allocate to trust income for each taxable year of the trust (or portion of that year) (i) net short-term capital gain described in section 1222(5) of the Code for that year or portion of that year, but only to the extent that the amount allocated together with all other amounts allocated to trust income for that year or portion of that year does not exceed the unitrust amount for that year or portion of that year; and (ii) net long-term capital gain described in section 1222(7) of the Code for that year or portion of that year, but only to the extent that the amount allocated together with all other amounts, including amounts described in clause (i) above, allocated to trust income for that year or portion of that year does not exceed the unitrust amount for that year or portion of that year.

**"§ 37A-1-104.5. Matters in trustee's discretion.**

In administering a total return unitrust, the trustee may, in its sole discretion but subject to the provisions of the governing instrument, determine:

- (1) The effective date of the conversion;
- (2) The timing of distributions, including provisions for prorating a distribution for a short year in which a beneficiary's right to payments commences or ceases;
- (3) Whether distributions are to be made in cash or in kind or partly in cash and partly in kind;
- (4) If the trust is reconverted to an income trust, the effective date of the reconversion; and
- (5) Any other administrative issues as may be necessary or appropriate to carry out the purposes of this Part.

**"§ 37A-1-104.6. No effect on principal distributions.**

Conversion to a total return unitrust under this Part shall not affect any other provision of the governing instrument, if any, regarding distributions of principal. For purposes of this Part, the distribution of a unitrust amount is considered a distribution of income and not of principal.

**"§ 37A-1-104.7. Marital deduction trusts.**

Notwithstanding anything in this Part to the contrary, in the case of any trust for which a marital deduction has been taken, in whole or in part, for federal tax purposes under section 2056 or section 2523 of the Code, the spouse otherwise entitled to receive the net income of the trust shall have the right, by written instrument delivered to the trustee, to compel for the spouse's lifetime (i) the conversion of the trust from an income trust to a total return unitrust or (ii) the reconversion of the trust from a total return unitrust to an income trust.

**"§ 37A-1-104.8. No liability on part of trustee or disinterested person acting in good faith.**

No trustee or disinterested person who in good faith takes or fails to take any action under this Part shall be liable to any person affected by the action or inaction, regardless of whether the person received written notice as provided in this Part and regardless of whether the person was under a legal disability at the time of the delivery of the notice.

The exclusive remedy for any person affected by an action or inaction shall be to obtain an order of the court directing the trustee (i) to convert an income trust to a total return unitrust, (ii) to reconvert from a total return unitrust to an income trust, or (iii) to change the percentage used to calculate the unitrust amount.

**"§ 37A-1-104.9. Applicability.**

This Part shall apply to all trusts in existence on, or created after January 1, 2004, unless (i) the governing instrument contains a provision clearly expressing the grantor's intention that the current beneficiary or beneficiaries are to receive an amount other than a reasonable current return from the trust, (ii) the trust is a trust described in section 170(f)(2)(B), section 664(d), section 2702(a)(3), or section 2702(b) of the Code, (iii) one or more persons to whom the trustee could distribute income has a power of withdrawal over the trust that is not subject to an ascertainable standard under section 2041 or section 2514 of the Code, or the power of withdrawal can be exercised to discharge a duty of support the person possesses, or (iv) the governing instrument expressly prohibits use of this Part by specific reference to this Part.

"Part 3. Judicial Control of Discretionary Power.

**"§ 37A-1-105. Judicial control of discretionary power.**

(a) The court shall not order a fiduciary to change a decision to exercise or not to exercise a discretionary power conferred by this Chapter unless it determines that the decision was an abuse of the fiduciary's discretion. A fiduciary's decision is not an abuse of discretion merely because the court would have exercised the power in a different manner or would not have exercised the power.

(b) The decisions to which subsection (a) of this section applies include:

- (1) A decision under G.S. 37A-1-104(a) as to whether and to what extent an amount should be transferred from principal to income or from income to principal.
- (2) A decision regarding the factors that are relevant to the trust and its beneficiaries, the extent to which the factors are relevant, and the weight, if any, to be given to those factors in deciding whether and to what extent to exercise the discretionary power conferred by G.S. 37A-1-104(a).

(c) If the court determines that a fiduciary has abused the fiduciary's discretion, the court may place the income and remainder beneficiaries in the positions they would have occupied if the discretion had not been abused, according to the following rules:

- (1) To the extent that the abuse of discretion has resulted in no distribution to a beneficiary or in a distribution that is too small, the court shall order the fiduciary to distribute from the trust to the beneficiary an amount that the court determines will restore the beneficiary, in whole or in part, to the beneficiary's appropriate position.
- (2) To the extent that the abuse of discretion has resulted in a distribution to a beneficiary that is too large, the court shall place the beneficiaries, the trust, or both, in whole or in part, in their appropriate positions by ordering the fiduciary to withhold an amount from one or more future distributions to the beneficiary who received the distribution that was too large or ordering that beneficiary to return some or all of the distribution to the trust.
- (3) To the extent that the court is unable, after applying subdivisions (1) and (2) of this subsection, to place the beneficiaries, the trust, or both in the positions they would have occupied if the discretion had not

been abused, the court may order the fiduciary to pay an appropriate amount from its own funds to one or more of the beneficiaries or the trust or both.

(d) Upon petition by the fiduciary, the court having jurisdiction over a trust or estate shall determine whether a proposed exercise or nonexercise by the fiduciary of a discretionary power conferred by this Chapter will result in an abuse of the fiduciary's discretion. If the petition describes the proposed exercise or nonexercise of the power and contains sufficient information to inform the beneficiaries of the reasons for the proposal, the facts upon which the fiduciary relies, and an explanation of how the income and remainder beneficiaries will be affected by the proposed exercise or nonexercise of the power, a beneficiary who challenges the proposed exercise or nonexercise has the burden of establishing that it will result in an abuse of discretion.

"Article 2.

"Decedent's Estate or Terminating Income Interest.

**"§ 37A-2-201. Determination and distribution of net income.**

After a decedent dies, in the case of an estate, or after an income interest in a trust ends, the following rules apply:

- (1) A fiduciary of an estate or of a terminating income interest shall determine the amount of net income and net principal receipts received from property specifically given to a beneficiary under the rules in Articles 3 through 5 of this Chapter that apply to trustees and the rules in subdivision (5) of this section. The fiduciary shall distribute the net income and net principal receipts to the beneficiary who is to receive the specific property.
- (2) A fiduciary shall determine the remaining net income of a decedent's estate or a terminating income interest under the rules in Articles 3 through 5 of this Chapter that apply to trustees and by:
  - a. Including in net income all income from property used to discharge liabilities;
  - b. Paying from income or principal, in the fiduciary's discretion, fees of attorneys, accountants, and fiduciaries; court costs and other expenses of administration; and interest on death taxes, but the fiduciary may pay those expenses from income of property passing to a trust for which the fiduciary claims an estate tax marital or charitable deduction only to the extent that the payment of those expenses from income will not cause the reduction or loss of the deduction; and
  - c. Paying from principal all other disbursements made or incurred in connection with the settlement of a decedent's estate or the winding up of a terminating income interest, including debts, funeral expenses, disposition of remains, family allowances, and death taxes and related penalties that are apportioned to the estate or terminating income interest by the will, the terms of the trust, or applicable law.
- (3) Unless the will or trust instrument otherwise provides, or the court otherwise directs, a fiduciary shall distribute to a beneficiary who receives a pecuniary amount outright interest, computed as provided in G.S. 24-1 from the date that is one year following the date of death of the person whose death gives rise to the payment of the pecuniary

bequest or the happening of the contingency that causes the income interest to end, from net income determined under subdivision (2) of this section or from principal to the extent that net income is insufficient. However, this subdivision shall not apply to a pecuniary bequest:

- a. To or for the benefit of a decedent's surviving spouse that is or can be qualified for the federal estate tax marital deduction; or
  - b. To or for the benefit of charitable organizations that are qualified for the federal estate tax charitable deduction, including a charitable remainder trust.
- (4) A fiduciary shall distribute the net income remaining after distributions required by subdivision (3) of this section in the manner described in G.S. 37A-2-202 to all other beneficiaries, including a beneficiary who receives a pecuniary amount in trust, even if the beneficiary holds an unqualified power to withdraw assets from the trust or other presently exercisable general power of appointment over the trust.
- (5) A fiduciary shall not reduce principal or income receipts from property described in subdivision (1) of this section because of a payment described in G.S. 37A-5-501 or G.S. 37A-5-502 to the extent that the will, the terms of the trust, or applicable law requires the fiduciary to make the payment from assets other than the property or to the extent that the fiduciary recovers or expects to recover the payment from a third party. The net income and principal receipts from the property are determined by including all of the amounts the fiduciary receives or pays with respect to the property, whether those amounts accrued or became due before, on, or after the date of a decedent's death or an income interest's terminating event, and by making a reasonable provision for amounts that the fiduciary believes the estate or terminating income interest may become obligated to pay after the property is distributed.

**"§ 37A-2-202. Distribution to residuary and remainder beneficiaries.**

(a) Each beneficiary described in G.S. 37A-2-201(4) is entitled to receive a portion of the net income equal to the beneficiary's fractional interest in undistributed principal assets, using values as of the distribution date. If a fiduciary makes more than one distribution of assets to beneficiaries to whom this section applies, each beneficiary, including one who does not receive part of the distribution, is entitled, as of each distribution date, to the net income the fiduciary has received after the date of death or terminating event or earlier distribution date but has not distributed as of the current distribution date.

- (b) In determining a beneficiary's share of net income, the following rules apply:
- (1) The beneficiary is entitled to receive a portion of the net income equal to the beneficiary's fractional interest in the undistributed principal assets immediately before the distribution date, including assets that later may be sold to meet principal obligations.
  - (2) The beneficiary's fractional interest in the undistributed principal assets shall be calculated without regard to property specifically given to a beneficiary and property required to pay pecuniary amounts not in trust.

- (3) The beneficiary's fractional interest in the undistributed principal assets shall be calculated on the basis of the aggregate value of those assets as of the distribution date without reducing the value by any unpaid principal obligation.
- (4) The distribution date for purposes of this section may be the date as of which the fiduciary calculates the value of the assets if that date is reasonably near the date on which assets are actually distributed.

(c) If a fiduciary does not distribute all of the collected but undistributed net income to each person as of a distribution date, the fiduciary shall maintain appropriate records showing the interest of each beneficiary in that net income.

(d) A fiduciary may apply the rules in this section, to the extent that the fiduciary considers it appropriate, to net gain or loss realized after the date of death or terminating event or earlier distribution date from the disposition of a principal asset if this section applies to the income from the asset.

"Article 3.

"Apportionment at Beginning and End of Income Interest.

**"§ 37A-3-301. When right to income begins and ends.**

(a) An income beneficiary is entitled to net income from the date on which the income interest begins. An income interest begins on the date specified in the terms of the trust or, if no date is specified, on the date an asset becomes subject to a trust or successive income interest.

(b) An asset becomes subject to a trust:

- (1) On the date it is transferred to the trust in the case of an asset that is transferred to a trust during the transferor's life;
- (2) On the date of a testator's death in the case of an asset that becomes subject to a trust by reason of a will, even if there is an intervening period of administration of the testator's estate; or
- (3) On the date of an individual's death in the case of an asset that is transferred to a fiduciary by a third party because of the individual's death.

(c) An asset becomes subject to a successive income interest on the day after the preceding income interest ends, as determined under subsection (d) of this section, even if there is an intervening period of administration to wind up the preceding income interest.

(d) An income interest ends on the day before an income beneficiary dies or another terminating event occurs or on the last day of a period during which there is no beneficiary to whom a trustee may distribute income.

**"§ 37A-3-302. Apportionment of receipts and disbursements when decedent dies or income interest begins.**

(a) A trustee shall allocate an income receipt or disbursement, other than one to which G.S. 37A-2-201(1) applies to principal, if its due date occurs before a decedent dies in the case of an estate or before an income interest begins in the case of a trust or successive income interest.

(b) A trustee shall allocate an income receipt or disbursement to income if its due date occurs on or after the date on which a decedent dies or an income interest begins and it is a periodic due date. An income receipt or disbursement shall be treated as accruing from day to day if its due date is not periodic or it has no due date. The portion of the receipt or disbursement accruing before the date on which a decedent dies or an

income interest begins shall be allocated to principal, and the balance shall be allocated to income.

(c) An item of income or an obligation is due on the date the payer is required to make a payment. If a payment date is not stated, there is no due date for the purposes of this Chapter. Distributions to shareholders or other owners from an entity to which G.S. 37A-4-401 applies are considered to be due on the date fixed by the entity for determining who is entitled to receive the distribution or, if no date is fixed, on the declaration date for the distribution. A due date is periodic for receipts or disbursements that shall be paid at regular intervals under a lease or an obligation to pay interest or if an entity customarily makes distributions at regular intervals.

**"§ 37A-3-303. Apportionment when income interest ends.**

(a) In this section, "undistributed income" means net income received before the date on which an income interest ends. The term does not include an item of income or expense that is due or accrued or net income that has been added or is required to be added to principal under the terms of the trust.

(b) When a mandatory income interest ends, the trustee shall pay to a mandatory income beneficiary who survives that date, or to the estate of a deceased mandatory income beneficiary whose death causes the interest to end, the beneficiary's share of the undistributed income that is not disposed of under the terms of the trust unless the beneficiary has an unqualified power to revoke more than five percent (5%) of the trust immediately before the income interest ends. In the latter case, the undistributed income from the portion of the trust that may be revoked shall be added to principal.

(c) When a trustee's obligation to pay a fixed annuity or a fixed fraction of the value of the trust's assets ends, the trustee shall prorate the final payment if and to the extent required by applicable law to accomplish a purpose of the trust or its settlor relating to income, gift, estate, or other tax requirements.

"Article 4.

"Allocation of Receipts During Administration of Trust.

"Part 1. Receipts From Entities.

**"§ 37A-4-401. Character of receipts.**

(a) In this section, "entity" means a corporation, partnership, limited liability company, regulated investment company, real estate investment trust, common trust fund, or any other organization in which a trustee has an interest other than a trust or estate to which G.S. 37A-4-402 applies, a business or activity to which G.S. 37A-4-403 applies, or an asset-backed security to which G.S. 37A-4-415 applies.

(b) Except as otherwise provided in this section, a trustee shall allocate to income money received from an entity.

(c) A trustee shall allocate the following receipts from an entity to principal:

- (1) Property other than money;
- (2) Money received in one distribution or a series of related distributions in exchange for part or all of a trust's interest in the entity;
- (3) Money received in total or partial liquidation of the entity; and
- (4) Money received from an entity that is a regulated investment company or a real estate investment trust if the money distributed is a capital gain dividend for federal income tax purposes.

(d) Money is received in partial liquidation:

- (1) To the extent that the entity, at or near the time of a distribution, indicates that it is a distribution in partial liquidation; or

(2) If the total amount of money and property received in a distribution or series of related distributions is greater than twenty percent (20%) of the entity's gross assets, as shown by the entity's year-end financial statements immediately preceding the initial receipt.

(e) Money is not received in partial liquidation, nor may it be taken into account under subdivision (2) of subsection (d) of this section, to the extent that it does not exceed the amount of income tax that a trustee or beneficiary shall pay on taxable income of the entity that distributes the money.

(f) A trustee may rely upon a statement made by an entity about the source or character of a distribution if the statement is made at or near the time of distribution by the entity's board of directors or other person or group of persons authorized to exercise powers to pay money or transfer property comparable to those of a corporation's board of directors.

**"§ 37A-4-402. Distribution from trust or estate.**

A trustee shall allocate to income an amount received as a distribution of income from a trust or an estate in which the trust has an interest other than a purchased interest and shall allocate to principal an amount received as a distribution of principal from the trust or estate. If a trustee purchases an interest in a trust that is an investment entity, or a decedent or donor transfers an interest in a trust to a trustee, G.S. 37A-4-401 or G.S. 37A-4-415 applies to a receipt from the trust.

**"§ 37A-4-403. Business and other activities conducted by trustee.**

(a) If a trustee who conducts a business or other activity determines that it is in the best interest of all the beneficiaries to account separately for the business or activity instead of accounting for it as part of the trust's general accounting records, the trustee may maintain separate accounting records for its transactions, whether or not its assets are segregated from other trust assets.

(b) A trustee who accounts separately for a business or other activity may determine the extent to which its net cash receipts shall be retained for working capital, the acquisition or replacement of fixed assets, and other reasonably foreseeable needs of the business or activity, and the extent to which the remaining net cash receipts are accounted for as principal or income in the trust's general accounting records. If a trustee sells assets of the business or other activity, other than in the ordinary course of the business or activity, the trustee shall account for the net amount received as principal in the trust's general accounting records to the extent the trustee determines that the amount received is no longer required in the conduct of the business.

(c) Activities for which a trustee may maintain separate accounting records include:

- (1) Retail, manufacturing, service, and other traditional business activities;
- (2) Farming;
- (3) Raising and selling livestock and other animals;
- (4) Management of rental properties;
- (5) Extraction of minerals and other natural resources;
- (6) Timber operations; and
- (7) Activities to which G.S. 37A-4-414 applies.

"Part 2. Receipts Not Normally Apportioned.

**"§ 37A-4-404. Principal receipts.**

A trustee shall allocate to principal:

- (1) To the extent not allocated to income under this Chapter, assets received from a transferor during the transferor's lifetime, a decedent's

- estate, a trust with a terminating income interest, or a payer under a contract naming the trust or its trustee as beneficiary;
- (2) Money or other property received from the sale, exchange, liquidation, or change in form of a principal asset, including realized profit, subject to this Article;
  - (3) Amounts recovered from third parties to reimburse the trust because of disbursements described in G.S. 37A-5-502(a)(7) or for other reasons to the extent not based on the loss of income;
  - (4) Proceeds of property taken by eminent domain, but a separate award made for the loss of income with respect to an accounting period during which a current income beneficiary had a mandatory income interest is income;
  - (5) Net income received in an accounting period during which there is no beneficiary to whom a trustee may or shall distribute income; and
  - (6) Other receipts as provided in Part 3 of this Article.

**"§ 37A-4-405. Rental property.**

To the extent that a trustee accounts for receipts from rental property under this section, the trustee shall allocate to income an amount received as rent of real or personal property, including an amount received for cancellation or renewal of a lease. An amount received as a refundable deposit, including a security deposit or a deposit that is to be applied as rent for future periods, shall be added to principal and held subject to the terms of the lease and is not available for distribution to a beneficiary until the trustee's contractual obligations have been satisfied with respect to that amount.

**"§ 37A-4-406. Obligation to pay money.**

(a) An amount received as interest, whether determined at a fixed, variable, or floating rate, on an obligation to pay money to the trustee, including an amount received as consideration for prepaying principal, shall be allocated to income without any provision for amortization of premium.

(b) A trustee shall allocate to principal an amount received from the sale, redemption, or other disposition of an obligation to pay money to the trustee more than one year after it is purchased or acquired by the trustee, including an obligation whose purchase price or value when it is acquired is less than its value at maturity. If the obligation matures within one year after it is purchased or acquired by the trustee, an amount received in excess of its purchase price or its value when acquired by the trust shall be allocated to income.

(c) This section does not apply to an obligation to which G.S. 37A-4-409, 37A-4-410, 37A-4-411, 37A-4-412, 37A-4-414, or 37A-4-415 applies.

**"§ 37A-4-407. Insurance policies and similar contracts.**

(a) Except as otherwise provided in subsection (b) of this section, a trustee shall allocate to principal the proceeds of a life insurance policy or other contract in which the trust or its trustee is named as beneficiary, including a contract that insures the trust or its trustee against loss for damage to, destruction of, or loss of title to a trust asset. The trustee shall allocate dividends on an insurance policy to income if the premiums on the policy are paid from income and to principal if the premiums are paid from principal.

(b) A trustee shall allocate to income proceeds of a contract that insures the trustee against loss of occupancy or other use by an income beneficiary, loss of income, or, subject to G.S. 37A-4-403, loss of profits from a business.

(c) This section does not apply to a contract to which G.S. 37A-4-409 applies.



"Part 3. Receipts Normally Apportioned.**"§ 37A-4-408. Insubstantial allocations not required.**

If a trustee determines that an allocation between principal and income required by G.S. 37A-4-409, 37A-4-410, 37A-4-411, 37A-4-412, or 37A-4-415 is insubstantial, the trustee may allocate the entire amount to principal unless one of the circumstances described in G.S. 37A-1-104(c) applies to the allocation. This power may be exercised by a cotrustee in the circumstances described in G.S. 37A-1-104(d) and may be released for the reasons and in the manner described in G.S. 37A-1-104(e). An allocation is presumed to be insubstantial if:

- (1) The amount of the allocation would increase or decrease net income in an accounting period, as determined before the allocation, by less than ten percent (10%); or
- (2) The value of the asset producing the receipt for which the allocation would be made is less than ten percent (10%) of the total value of the trust's assets at the beginning of the accounting period.

**"§ 37A-4-409. Deferred compensation, annuities, and similar payments.**

(a) In this section, "payment" means a payment that a trustee may receive over a fixed number of years or during the life of one or more individuals because of services rendered or property transferred to the payer in exchange for future payments. The term includes a payment made in money or property from the payer's general assets or from a separate fund created by the payer, including a private or commercial annuity, an individual retirement account, and a pension, profit-sharing, stock-bonus, or stock-ownership plan.

(b) To the extent that a payment is characterized as interest or a dividend or a payment made in lieu of interest or a dividend, a trustee shall allocate it to income. The trustee shall allocate to principal the balance of the payment and any other payment received in the same accounting period that is not characterized as interest, a dividend, or an equivalent payment.

(c) If no part of a payment is characterized as interest, a dividend, or an equivalent payment, and all or part of the payment is required to be made, a trustee shall allocate to income ten percent (10%) of the part that is required to be made during the accounting period and the balance to principal. If no part of a payment is required to be made or the payment received is the entire amount to which the trustee is entitled, the trustee shall allocate the entire payment to principal. For purposes of this subsection, a payment is not "required to be made" to the extent that it is made because the trustee exercises a right of withdrawal.

(d) If, to obtain an estate tax marital deduction for a trust, a trustee shall allocate more of a payment to income than provided for by this section, the trustee shall allocate to income the additional amount necessary to obtain the marital deduction.

(e) This section does not apply to payments to which G.S. 37A-4-410 applies.

**"§ 37A-4-410. Liquidating asset.**

(a) In this section, "liquidating asset" means an asset whose value will diminish or terminate because the asset is expected to produce receipts for a period of limited duration. The term includes a leasehold, patent, copyright, royalty right, and right to receive payments during a period of more than one year under an arrangement that does not provide for the payment of interest on the unpaid balance. The term does not include a payment subject to G.S. 37A-4-409, resources subject to G.S. 37A-4-411, timber subject to G.S. 37A-4-412, an activity subject to G.S. 37A-4-414, an asset subject to

G.S. 37A-4-415, or any asset for which the trustee establishes a reserve for depreciation under G.S. 37A-5-503.

(b) A trustee shall allocate to income ten percent (10%) of the receipts from a liquidating asset and the balance to principal.

**"§ 37A-4-411. Minerals, water, and other natural resources.**

(a) To the extent that a trustee accounts for receipts from an interest in minerals or other natural resources under this section, the trustee shall allocate them as follows:

- (1) If received as nominal delay rental or nominal annual rent on a lease, a receipt shall be allocated to income.
- (2) If received from a production payment, a receipt shall be allocated to income if and to the extent that the agreement creating the production payment provides a factor for interest or its equivalent. The balance shall be allocated to principal.
- (3) If an amount received as a royalty, shut-in-well payment, take-or-pay payment, bonus, or delay rental is more than nominal, ninety percent (90%) shall be allocated to principal and the balance to income.
- (4) If an amount is received from a working interest or any other interest not provided for in subdivision (1), (2), or (3) of this subsection, ninety percent (90%) of the net amount received shall be allocated to principal and the balance to income.

(b) An amount received on account of an interest in water that is renewable shall be allocated to income. If the water is not renewable, ninety percent (90%) of the amount shall be allocated to principal and the balance to income.

(c) This Chapter applies whether or not a decedent or donor was extracting minerals, water, or other natural resources before the interest became subject to the trust.

(d) If a trust owns an interest in minerals, water, or other natural resources on January 1, 2004, the trustee may allocate receipts from the interest as provided in this Chapter or in the manner used by the trustee before January 1, 2004. If the trust acquires an interest in minerals, water, or other natural resources after January 1, 2004, the trustee shall allocate receipts from the interest as provided in this Chapter.

**"§ 37A-4-412. Timber.**

(a) To the extent that a trustee accounts for receipts from the sale of timber and related products pursuant to this section, the trustee shall allocate the net receipts:

- (1) To income to the extent that the amount of timber removed from the land does not exceed the rate of growth of the timber during the accounting periods in which a beneficiary has a mandatory income interest;
- (2) To principal to the extent that the amount of timber removed from the land exceeds the rate of growth of the timber or the net receipts are from the sale of standing timber;
- (3) To or between income and principal if the net receipts are from the lease of timberland or from a contract to cut timber from land owned by a trust, by determining the amount of timber removed from the land under the lease or contract and applying the rules in subdivisions (1) and (2) of this subsection; or
- (4) To principal to the extent that advance payments, bonuses, and other payments are not allocated pursuant to subdivision (1), (2), or (3) of this subsection.

(b) In determining net receipts to be allocated pursuant to subsection (a) of this section, a trustee shall deduct and transfer to principal a reasonable amount for depletion.

(c) This Chapter applies whether or not a decedent or transferor was harvesting timber from the property before it becomes subject to the trust.

(d) If a trust owns an interest in timberland on January 1, 2004, the trustee may allocate net receipts from the sale of timber and related products as provided in this Chapter or in the manner used by the trustee before January 1, 2004. If the trust acquires an interest in timberland after January 1, 2004, the trustee shall allocate net receipts from the sale of timber and related products as provided in this Chapter.

**"§ 37A-4-413. Property not productive of income.**

(a) If a marital deduction is allowed for all or part of a trust whose assets consist substantially of property that does not provide the spouse with sufficient income from or use of the trust assets, and if the amounts that the trustee transfers from principal to income under G.S. 37A-1-104 and distributes to the spouse from principal under the terms of the trust are insufficient to provide the spouse with the beneficial enjoyment required to obtain the marital deduction, the spouse may require the trustee to make property productive of income, convert property within a reasonable time, or exercise the power conferred by G.S. 37A-1-104(a). The trustee may decide which action or combination of actions to take.

(b) In cases not governed by subsection (a) of this section, proceeds from the sale or other disposition of an asset are principal without regard to the amount of income the asset produces during any accounting period.

**"§ 37A-4-414. Derivatives and options.**

(a) In this section, "derivative" means a contract or financial instrument or a combination of contracts and financial instruments that gives a trust the right or obligation to participate in some or all changes in the price of a tangible or intangible asset or group of assets or changes in a rate, an index of prices or rates, or other market indicator for an asset or a group of assets.

(b) To the extent that a trustee does not account under G.S. 37A-4-403 for transactions in derivatives, the trustee shall allocate to principal receipts from and disbursements made in connection with those transactions.

(c) If a trustee grants an option to buy property from the trust, whether or not the trust owns the property when the option is granted, grants an option that permits another person to sell property to the trust, or acquires an option to buy property for the trust or an option to sell an asset owned by the trust, and the trustee or other owner of the asset is required to deliver the asset if the option is exercised, an amount received for granting the option shall be allocated to principal. An amount paid to acquire the option shall be paid from principal. A gain or loss realized upon the exercise of an option, including an option granted to a settlor of the trust for services rendered, shall be allocated to principal.

**"§ 37A-4-415. Asset-backed securities.**

(a) In this section, "asset-backed security" means an asset whose value is based upon the right it gives the owner to receive distributions from the proceeds of financial assets that provide collateral for the security. The term includes an asset that gives the owner the right to receive from the collateral financial assets only the interest or other current return or only the proceeds other than interest or current return. The term does not include an asset to which G.S. 37A-4-401 or G.S. 37A-4-409 applies.

(b) If a trust receives a payment from interest or other current return and from other proceeds of the collateral financial assets, the trustee shall allocate to income the portion of the payment the payer identifies as being from interest or other current return and shall allocate the balance of the payment to principal.

(c) If a trust receives one or more payments in exchange for the trust's entire interest in an asset-backed security in one accounting period, the trustee shall allocate the payments to principal. If a payment is one of a series of payments that will result in the liquidation of the trust's interest in the security over more than one accounting period, the trustee shall allocate ten percent (10%) of the payment to income and the balance to principal.

"Article 5.

"Allocation of Disbursements During Administration of Trust.

**"§ 37A-5-501. Disbursements from income.**

A trustee shall make the following disbursements from income to the extent that they are not disbursements to which G.S. 37A-2-201(2)b. or G.S. 37A-2-201(2)c. applies:

- (1) One-half of the regular compensation of the trustee and of any person providing investment advisory or custodial services to the trustee;
- (2) One-half of all expenses for accountings, judicial proceedings, or other matters that involve both the income and remainder interests;
- (3) All of the other ordinary expenses incurred in connection with the administration, management, or preservation of trust property and the distribution of income, including interest, ordinary repairs, regularly recurring taxes assessed against principal, and expenses of a proceeding or other matter that concerns primarily the income interest; and
- (4) Recurring premiums on insurance covering the loss of a principal asset or the loss of income from or use of the asset.

**"§ 37A-5-502. Disbursements from principal.**

(a) A trustee shall make the following disbursements from principal:

- (1) The remaining one-half of the disbursements described in G.S. 37A-5-501(1) and G.S. 37A-5-501(2);
- (2) All of the trustee's compensation calculated on principal as a fee for acceptance, distribution, or termination and disbursements made to prepare property for sale;
- (3) Payments on the principal of a trust debt;
- (4) Expenses of a proceeding that concerns primarily principal, including a proceeding to construe the trust or to protect the trust or its property;
- (5) Premiums paid on a policy of insurance not described in G.S. 37A-5-501(4) of which the trust is the owner and beneficiary;
- (6) Estate, inheritance, and other transfer taxes, including penalties, apportioned to the trust; and
- (7) Disbursements related to environmental matters, including reclamation, assessing environmental conditions, remedying and removing environmental contamination, monitoring remedial activities and the release of substances, preventing future releases of substances, collecting amounts from persons liable or potentially liable for the costs of those activities, penalties imposed under environmental laws or regulations and other payments made to comply with those laws or

regulations, statutory or common-law claims by third parties, and defending claims based on environmental matters.

(b) If a principal asset is encumbered with an obligation that requires income from that asset to be paid directly to the creditor, the trustee shall transfer from principal to income an amount equal to the income paid to the creditor in reduction of the principal balance of the obligation.

**"§ 37A-5-503. Transfers from income to principal for depreciation.**

(a) In this section, "depreciation" means a reduction in value due to wear, tear, decay, corrosion, or gradual obsolescence of a fixed asset having a useful life of more than one year.

(b) A trustee may transfer to principal a reasonable amount of the net cash receipts from a principal asset that is subject to depreciation, but may not transfer any amount for depreciation:

- (1) Of that portion of real property used or available for use by a beneficiary as a residence or of tangible personal property held or made available for the personal use or enjoyment of a beneficiary;
- (2) During the administration of a decedent's estate; or
- (3) Under this section if the trustee is accounting under G.S. 37A-4-403 for the business or activity in which the asset is used.

(c) An amount transferred to principal under this section need not be held as a separate fund.

**"§ 37A-5-504. Transfers from income to reimburse principal.**

(a) If a trustee makes or expects to make a principal disbursement described in this section, the trustee may transfer an appropriate amount from income to principal in one or more accounting periods to reimburse principal or to provide a reserve for future principal disbursements.

(b) Principal disbursements to which subsection (a) of this section applies include the following, but only to the extent that the trustee has not been and does not expect to be reimbursed by a third party:

- (1) An amount chargeable to income but paid from principal because it is unusually large, including extraordinary repairs;
- (2) A capital improvement to a principal asset, whether in the form of changes to an existing asset or the construction of a new asset, including special assessments;
- (3) Disbursements made to prepare property for rental, including tenant allowances, leasehold improvements, and broker's commissions;
- (4) Periodic payments on an obligation secured by a principal asset to the extent that the amount transferred from income to principal for depreciation is less than the periodic payments; and
- (5) Disbursements described in G.S. 37A-5-502(a)(7).

(c) If the asset whose ownership gives rise to the disbursements becomes subject to a successive income interest after an income interest ends, a trustee may continue to transfer amounts from income to principal as provided in subsection (a) of this section.

**"§ 37A-5-505. Income taxes.**

(a) A tax required to be paid by a trustee based on receipts allocated to income shall be paid from income.

(b) A tax required to be paid by a trustee based on receipts allocated to principal shall be paid from principal, even if the tax is called an income tax by the taxing authority.

(c) A tax required to be paid by a trustee on the trust's share of an entity's taxable income shall be paid proportionately:

- (1) From income to the extent that receipts from the entity are allocated to income; and
- (2) From principal to the extent that:
  - a. Receipts from the entity are allocated to principal; and
  - b. The trust's share of the entity's taxable income exceeds the total receipts described in subdivision (1) and sub-subdivision (2)a. of this subsection.

(d) For purposes of this section, receipts allocated to principal or income shall be reduced by the amount distributed to a beneficiary from principal or income for which the trust receives a deduction in calculating the tax.

**"§ 37A-5-506. Adjustments between principal and income because of taxes.**

(a) A fiduciary may make adjustments between principal and income to offset the shifting of economic interests or tax benefits between income beneficiaries and remainder beneficiaries that arise from:

- (1) Elections and decisions, other than those described in subsection (b) of this section, that the fiduciary makes from time to time regarding tax matters;
- (2) An income tax or any other tax that is imposed upon the fiduciary or a beneficiary as a result of a transaction involving or a distribution from the estate or trust; or
- (3) The ownership by an estate or trust of an interest in an entity whose taxable income, whether or not distributed, is includable in the taxable income of the estate or trust or a beneficiary.

(b) If the amount of an estate tax marital deduction or charitable contribution deduction is reduced because a fiduciary deducts an amount paid from principal for income tax purposes instead of deducting it for estate tax purposes, and as a result estate taxes paid from principal are increased and income taxes paid by an estate, trust, or beneficiary are decreased, each estate, trust, or beneficiary that benefits from the decrease in income tax shall reimburse the principal from which the increase in estate tax is paid. The total reimbursement shall equal the increase in the estate tax to the extent that the principal used to pay the increase would have qualified for a marital deduction or charitable contribution deduction but for the payment. The proportionate share of the reimbursement for each estate, trust, or beneficiary whose income taxes are reduced shall be the same as its proportionate share of the total decrease in income tax. An estate or trust shall reimburse principal from income.

"Article 6.

"Miscellaneous Provisions.

**"§ 37A-6-601. Uniformity of application and construction.**

In applying and construing this Chapter, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

**"§ 37A-6-602. Severability clause.**

If any provision of this Chapter or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Chapter that can be given effect without the invalid provision or application, and to this end the provisions of this Chapter are severable."

**SECTION 3.** G.S. 32-27(29) reads as rewritten:

"§ 32-27. **Powers which may be incorporated by reference in trust instrument.**

The following powers may be incorporated by reference as provided in G.S. 32-26:

...

(29) Apportion and Allocate Receipts and Expenses. – Where not otherwise provided by the Uniform Principal and Income Act of 1973, 2003 as contained in ~~Chapter 37~~ Chapter 37A of the General Statutes, to determine:

- a. What is principal and what is income of any estate or trust and to allocate or apportion receipts and expenses as between principal and income in the exercise of the fiduciary's discretion, and, by way of illustration and not limitation of the fiduciary's discretion, to charge premiums on securities purchased at a premium against principal or income or partly against each;
- b. Whether to apply stock dividends and other noncash dividends to income or principal or apportion them as the fiduciary shall deem advisable; and
- c. What expenses, costs, taxes (other than estate, inheritance, and succession taxes and other governmental charges) shall be charged against principal or income or apportioned between principal and income and in what proportions."

**SECTION 4.** G.S. 32-34(b)(3) reads as rewritten:

"(3) Any power conferred upon the fiduciary in his capacity as a fiduciary to allocate receipts and expenses as between income and principal in his own favor must be exercised in accordance with the provisions of ~~Article 2 of Chapter 37~~ Chapter 37A of the General Statutes, the Uniform Principal and Income Act of 1973, 2003."

**SECTION 5.** G.S. 36A-130(b) reads as rewritten:

"(b) If, but for the absence of a direction in the will or trust agreement that accrued income shall be paid to the estate of the spouse, a trust created under a will or trust agreement for the benefit of the spouse of the testator or the grantor of the trust would qualify for the federal estate tax marital deduction under section 2056(b)(7) of the Internal Revenue Code or the federal gift tax marital deduction under section 2523(f) of the Internal Revenue Code, then, unless the will or trust agreement specifically provides otherwise by reference to this section, upon the termination of the income interest all accrued or undistributed income of the trust at the death of spouse shall be paid to the personal representative of the spouse's estate in accordance with the Uniform Principal and Income Act of 1973, Article 2 of Chapter 37 2003, Chapter 37A of the General Statutes."

**SECTION 6.** G.S. 160A-234(a) reads as rewritten:

"(a) Assessments upon real property in the possession or enjoyment of a tenant for life, or a tenant for a term of years, shall be paid ~~in accordance with G.S. 37-36(b) by the holder of the remainder or reversion, as the case may be.~~"

**SECTION 7.** The Revisor of Statutes shall cause to be printed with this act all relevant portions of the official comments to the Uniform Principal and Income Act of 1997 and all explanatory comments of the drafters of this act, as the Revisor considers appropriate.

**SECTION 8.** This act becomes effective January 1, 2004, and applies to every trust or decedent's estate existing on that date or coming into existence after that date, except as otherwise expressly provided in the will or terms of the trust or in the provisions of Chapter 37A of the General Statutes, as enacted in this act.

In the General Assembly read three times and ratified this the 12<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 12:53 p.m. on the 19<sup>th</sup> day of June, 2003.

**S.B. 622****Session Law 2003-233**

AN ACT TO FURTHER PROMOTE E-COMMERCE AND E-GOVERNMENT.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 66-58.4 reads as rewritten:

"§ 66-58.4. **Use of electronic signatures.**

(a) All public agencies may accept electronic ~~signatures~~signatures pursuant to this Article, pursuant to Article 40 of this Chapter (the Uniform Electronic Transactions Act), or pursuant to other law.

(b) ~~Signatures that require attestation by a notary public may not be in the form of an electronic signature."~~

**SECTION 2.** G.S. 66-58.5 reads as rewritten:

"§ 66-58.5. **Validity of electronic signatures.**

(a) An electronic signature contained in a transaction undertaken pursuant to this Article between a person and a public agency, or between public agencies, shall have the same force and effect as a manual signature provided all of the following requirements are met:

- (1) The public agency involved in the transaction requests or requires the use of electronic signatures.
- (2) The electronic signature contained in the transaction embodies all of the following attributes:
  - a. It is unique to the person using it;
  - b. It is capable of certification;
  - c. It is under sole control of the person using it;
  - d. It is linked to data in such a manner that if the data are changed, the electronic signature is invalidated; and
  - e. It conforms to rules adopted by the Secretary pursuant to this Article.

(b) A transaction undertaken pursuant to this Article between a person and a public agency, or between public agencies, is not unenforceable, nor is it inadmissible into evidence, on the sole ground that the transaction is evidenced by an electronic record or that it has been signed with an electronic signature.

(c) This Article does not affect the validity of, presumptions relating to, or burdens of proof regarding an electronic signature that is accepted pursuant to Article 40 of this Chapter or other law."

**SECTION 3.** G.S. 55-16-22 reads as rewritten:

"§ 55-16-22. **Annual report.**

(a) Except as provided in subsections (a1) and (a2) of this section, each domestic corporation and each foreign corporation authorized to transact business in this State



shall deliver an annual report to the Secretary of ~~Revenue~~ Revenue in paper form or, in the alternative, directly to the Secretary of State in electronic form as prescribed by the Secretary of State under this section.

(a1) Each insurance company subject to the provisions of Chapter 58 of the General Statutes shall deliver an annual report to the Secretary of State.

(a2) A domestic corporation governed by Chapter 55B of the General Statutes is exempt from this section.

(a3) The annual report required by this section shall be in a form jointly prescribed by the Secretary of Revenue and the Secretary of State. The Secretary of Revenue shall provide the form needed to file an annual report. The Secretary of State shall prescribe the form needed to file an annual report electronically and shall provide this form by electronic means. The annual report shall set forth all of the following:

- (1) The name of the corporation and the state or country under whose law it is incorporated.
- (2) The street address, and the mailing address if different from the street address, of the registered office, the county in which its registered office is located, and the name of its registered agent at that office in this State, and a statement of any change of such registered office or registered agent, or both.
- (3) The address and telephone number of its principal office.
- (4) The names, titles, and business addresses of its principal officers.
- (4a) Repealed by Session Laws 1997-475, s. 6.1.
- (5) A brief description of the nature of its business.

If the information contained in the most recently filed annual report has not changed, a certification to that effect may be made instead of setting forth the information required by subdivisions (2) through (5) of this subsection.

(b) Information in the annual report must be current as of the date the annual report is executed on behalf of the corporation.

(c) An annual report ~~required~~ eligible to be delivered to the Secretary of Revenue is due by the due date for filing the corporation's income and franchise tax returns. An extension of time to file a return is an extension of time to file an annual report. At the option of the filer, an annual report may be filed directly with the Secretary of State in electronic form. An annual report required to be delivered to the Secretary of State is due by the fifteenth day of the third month following the close of the corporation's fiscal year.

(d) If an annual report does not contain the information required by this section, the Secretary of State shall promptly notify the reporting domestic or foreign corporation in writing and return the report to it for correction. If the report is corrected to contain the information required by this section and delivered to the Secretary of State within 30 days after the effective date of notice, it is deemed to be timely filed.

(e) Amendments to any previously filed annual report may be filed with the Secretary of State at any time for the purpose of correcting, updating, or augmenting the information contained in the annual report.

(f) Expired.

(g) When a statement of change of registered office or registered agent is filed in the annual report, the change shall become effective when the statement is received by the Secretary of State.

(h) If the Secretary of State does not receive an annual report within 120 days of the date the return is due, the Secretary of State may presume that the annual report is delinquent. This presumption may be rebutted by receipt of the annual report from the Secretary of Revenue or by evidence of delivery presented by the filing corporation."

**SECTION 4.** The Department of the Secretary of State may study and make recommendations to the 2004 Regular Session of the 2003 General Assembly regarding what changes are desirable to the Notary Public Act, Chapter 10A of the General Statutes, to further facilitate electronic notarization and make other changes to that Chapter.

**SECTION 5.(a)** This act is enacted or adopted after the date of the enactment of the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. § 7001, et seq., and hereby makes specific reference as required by that law.

**SECTION 5.(b)** This act is effective when it becomes law, with Sections 1, 2, and 3 applying to all filings made on or after that date.

In the General Assembly read three times and ratified this the 12<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 12:54 p.m. on the 19<sup>th</sup> day of June, 2003.

**S.B. 627****Session Law 2003-234**

AN ACT TO DEDICATE AND ACCEPT CERTAIN PROPERTIES AS PART OF THE STATE NATURE AND HISTORIC PRESERVE, TO REMOVE CERTAIN LANDS FROM THE STATE NATURE AND HISTORIC PRESERVE, AND TO DELETE A PARK FROM THE STATE PARKS SYSTEM.

Whereas, Section 5 of Article XIV of the Constitution of North Carolina authorizes the dedication of State and local government properties as part of the State Nature and Historic Preserve upon acceptance by a law enacted by a three-fifths vote of the members of each house of the General Assembly and provides for removal of properties from the State Nature and Historic Preserve by a law enacted by a three-fifths vote of the members of each house of the General Assembly; and

Whereas, the General Assembly enacted the State Nature and Historic Preserve Dedication Act, Chapter 443 of the 1973 Session Laws, to prescribe the conditions and procedures under which properties may be specifically dedicated for the purposes set out in Section 5 of Article XIV of the Constitution of North Carolina; and

Whereas, over 6,700 acres have been added to the State Parks System since the last dedication and acceptance of properties as part of the State Nature and Historic Preserve pursuant to a petition of the Council of State dated 3 April 2001, and

Whereas, in accordance with G.S. 143-260.8, on 6 May 2003 the Council of State voted to petition the General Assembly to enact a law pursuant to Section 5 of Article XIV of the Constitution of North Carolina to dedicate and accept properties added to the State Parks System and designated in the petition for inclusion as parts of the State Nature and Historic Preserve; and

Whereas, as a part of its petition of 6 May 2003 the Council of State also requested the General Assembly to remove certain properties from the State Nature and Historic Preserve; and

Whereas, G.S. 113-44.14 provides for additions to, and deletions from, the State Parks System upon authorization by the General Assembly; Now, therefore,

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 143-260.10 reads as rewritten:

**"§ 143-260.10. Components of State Nature and Historic Preserve.**

The following are components of the State Nature and Historic Preserve accepted by the North Carolina General Assembly pursuant to G.S. 143-260.8:

- (1) All lands and waters within the boundaries of the following units of the State Parks System as of ~~April 3, 2001~~: 6 May 2003: Baldhead Island State Natural Area, Bay Tree Lake State Park, Beech Creek Bog State Natural Area, Bullhead Mountain State Natural Area, Bushy Lake State Natural Area, Carolina Beach State Park, Cliffs of the Neuse State Park, Chowan Swamp State Natural Area, Dismal Swamp State Natural Area, Elk Knob State Natural Area, ~~Eno River State Park~~, Fort Fisher State Recreation Area, Fort Macon State Park, Goose Creek State Park, Gorges State Park, Hammocks Beach State Park, Hemlock Bluffs State Natural Area, Jones Lake State Park, Lake James State Park, Lake Norman State Park, Lake Waccamaw State Park, Lea Island State Natural Area, Lumber River State Park, Medoc Mountain State Park, Merchants Millpond State Park, Mitchells Millpond State Natural Area, Mount Mitchell State Park, Occoneechee Mountain State Natural Area, Pettigrew State Park, Pilot Mountain State Park, Raven Rock State Park, Run Hill State Natural Area, Singletary Lake State Park, Theodore Roosevelt State Natural Area, and Weymouth Woods-Sandhills Nature Preserve.
- (2) All lands and waters within the boundaries of William B. Umstead State Park as of ~~April 3, 2001~~, 6 May 2003 with the exception of Tract Number 65, containing 22.93140 acres as shown on a survey prepared by John S. Lawrence (RLS) and Bennie R. Smith (RLS), entitled "Property of The State of North Carolina William B. Umstead State Park", dated January 14, 1977 and filed in the State Property Office, which was removed from the State Nature and Historic Preserve by Chapter 450, Section 1 of the 1985 Session Laws. The tract excluded from the State Nature and Historic Preserve under this subdivision is deleted from the State Parks System in accordance with G.S. 113-44.14. The State of North Carolina may only exchange this land for other land for the expansion of William B. Umstead State Park or sell and use the proceeds for that purpose. The State of North Carolina may not otherwise sell or exchange this land.
- (3) Repealed by Session Laws 1999-268, s. 2.
- (4) All lands within the boundaries of Morrow Mountain State Park as of ~~April 3, 2001~~, 6 May 2003 with the exception of the following tract: That certain tract or parcel of land at Morrow Mountain State Park in Stanly County, North Albemarle Township, containing 0.303 acres, more or less, as surveyed and platted by Thomas W. Harris R.L.S., on a map dated August 27, 1988, and filed in the State Property Office, reference to which is hereby made for a more complete description.
- (5) Repealed by Session Laws 1999-268, s. 2.
- (6) All land within the boundaries of Crowders Mountain State Park as of ~~April 3, 2001~~, 6 May 2003 with the exception of the following ~~tract~~: tracts: The portion of that certain tract or parcel of land at Crowders

Mountain State Park in Gaston County, Crowders Mountain Township, described in Deed Book 1939, page 800, and containing 757.28 square feet and as shown in a survey by Tanner and McConnaughey, P.A. dated July 22, 1988 and filed in the State Property Office. The portion of that certain tract or parcel of land at Crowders Mountain State Park in Cleveland County, Number Four Township, described in Deed Book 1286, Page 85, and containing 1.64 acres as shown on the drawing prepared by the Division of Parks and Recreation entitled "Property to Be Excepted Crowders Mountain State Park" dated 14 April 2003, and filed in the State Property Office. The ~~tract~~-tracts excluded from the State Nature and Historic Preserve under this subdivision ~~is~~-are deleted from the State Parks System in accordance with G.S. 113-44.14. The State of North Carolina may only exchange this land for other land for the expansion of Crowders Mountain State Park or sell this land and use the proceeds for that purpose. The State may not otherwise sell or exchange this land.

- (7) All lands owned in fee simple by the State within the boundaries of New River State Park as of ~~April 3, 2001~~; 6 May 2003.
- (8) All lands and waters within the boundaries of Stone Mountain State Park as of ~~April 3, 2001~~; 6 May 2003 with the exception of the following tracts: The portion of that certain tract or parcel of land at Stone Mountain State Park in Wilkes County, Traphill Township, described as parcel 33-02 in Deed Book 633-193, and more particularly described as all of the land in this parcel lying to the west of the eastern edge of the Air Bellows Road, as shown on the National Park Service Land Status Map 33 dated March 24, 1981 and filed in the State Property Office, containing approximately 72 acres; and the portion of that certain tract or parcel of land at Stone Mountain State Park in Alleghany County, Cherry Lane Township, described in Deed Book 219, Page 543, and more particularly described as all of the land in this parcel lying north of the new division line on the survey by Andrews and Hobson Surveyors dated August 15, 2000, and entitled "Property Exchange Agreement for State of North Carolina & the United States of America", and filed in the State Property Office. The tracts excluded from the State Nature and Historic Preserve under this subdivision are deleted from the State Parks System in accordance with G.S. 113-44.14.
- (9) All lands and waters located within the boundaries of the following State Historic Sites as of ~~April 3, 2001~~; 6 May 2003: Alamance Battleground, Charles B. Aycock Birthplace, Historic Bath, Bennett Place, Bentonville Battleground, Brunswick Town/Fort Anderson, C.S.S. Neuse and Governor Caswell Memorial, Charlotte Hawkins Brown Memorial, Duke Homestead, Historic Edenton, Fort Dobbs, Fort Fisher, Historic Halifax, Horne Creek Living Historical Farm, House in the Horseshoe, North Carolina Transportation Museum, James K. Polk Memorial, Reed Gold Mine, Somerset Place, Stagville, State Capitol, Town Creek Indian Mound, Tryon Palace Historic Sites & Gardens, Zebulon B. Vance Birthplace, and Thomas Wolfe Memorial.

- (10), (11) Repealed by Session Laws 2001-217, s. 2, effective June 15, 2001.
- (12) All lands and waters located within the boundaries of Hanging Rock State Park as of ~~April 3, 2001~~, 6 May 2003 with the exception of the following tract: The portion of that tract or property at Hanging Rock State Park in Stokes County, Danbury Township, described in Deed Book 360, Page 160, for a 30-foot wide right-of-way beginning approximately 183 feet south of SR 1001 and extending in a southerly direction approximately 1,479 feet to the southwest corner of the Bobby Joe Lankford tract and more particularly shown on a survey entitled, "J. Spot Taylor Heirs Survey, Danbury Township, Stokes County, N.C.", by Grinski Surveying Company, dated June 1985, and filed in the State Property Office. The tract excluded from the State Nature and Historic Preserve under this subdivision is deleted from the State Parks System in accordance with G.S. 113-44.14.
- (13) All lands and waters located within the boundaries of South Mountains State Park as of ~~April 3, 2001~~, 6 May 2003 with the exception of the following ~~tracts~~: tracts. The tracts excluded from the State Nature and Historic Preserve under this subdivision are deleted from the State Parks System in accordance with G.S. 113-44.14.
- a. The portion of that tract or property at South Mountains State Park in Burke County, Lower Creek Township, described in Deed Book 862, Page 1471, required for the right-of-way and easements for the relocation of SR 1904 within the park and lying generally between the Rutherford Electric Membership Corporation right-of-way and the southern property boundary of the park, as described in the drawing entitled "Survey for State of North Carolina", dated January 28, 1999, prepared by Suttles Surveying, P.A., bearing the preparer's file name 12455.dwg and filed in the State Property Office; Office. The State of North Carolina may only exchange this land for other land for the expansion of South Mountains State Park or sell this land and use the proceeds for that purpose. The State may not otherwise sell or exchange this land.
- b. The portion of those certain tracts or parcels of land at South Mountains State Park in Burke County, Lower Creek Township, described in Deed Book 925, Page 1284, and Deed Book 870, Page 1729 required for the right-of-way and easements for the relocation of SR 1904 within the Park and shown on the drawing prepared by Suttles Surveying P.A. entitled "Survey of the Proposed Centerline of the New Road Alignment for the State of North Carolina" bearing the preparer's file name 12455D.dwg, dated 10 April 2003, and filed in the State Property Office. The State of North Carolina may only exchange this land for other land for the expansion of South Mountains State Park or sell this land and use the proceeds for that purpose. The State may not otherwise sell or exchange this land.

- c. ~~and the~~ The portions of land at South Mountains State Park that lie south of the centerline of the CCC road as shown on the drawing entitled "Land Trade between South Mountains State Park and Adjacent Game Lands along CCC Road" prepared by the Division of Parks and Recreation, dated March 15, 1999, and filed in the State Property Office and that lie within: (i) the tract or property in Burke County, Lower Fork Township, described in Deed Book 495, Page 501; (ii) the tract or property in Burke County, Lower Fork and Upper Fork Townships, described in Deed Book 715, Page 719; or, (iii) within the tracts or property in Burke County, Upper Fork Township, described in Deed Book 860, Page 341, and Deed Book 884, Page 1640. The State of North Carolina may only exchange this land for other land for the expansion of South Mountains State Park or sell this land and use the proceeds for that purpose. The State may not otherwise sell or exchange this land.
- d. The portion of that certain tract or parcel of land at South Mountains State Park in Burke County, Morganton Township, described in Deed Book 28, Page 607, Deed Book 28, Page 467, and Plat Book 3, Page 78, and containing 0.33 acres as shown on the drawing prepared by Hawkins Land Surveying entitled "Subdivision for Trustees of Walker Top Baptist Church" dated 26 September 2001, and filed with the State Property Office. The State may transfer this property to the Trustees of Walker Top Baptist Church to be used for church purposes. The instrument transferring this property shall provide that the State retains a possibility of reverter and shall provide that, in the event that the Walker Top Baptist Church ceases to use the property for church purposes, the property shall revert to the State. The State may not otherwise sell or exchange the property.  
~~The tracts excluded from the State Nature and Historic Preserve under this subdivision are deleted from the State Parks System in accordance with G.S. 113-44.14. The State of North Carolina may only exchange this land for other land for the expansion of South Mountains State Park or sell this land and use the proceeds for that purpose. The State may not otherwise sell or exchange this land.~~
- (14) ~~All lands and waters within the boundaries of Bushy Lake State Natural Area as of April 3, 2001, with the exception of the following tract: The portion of that certain tract or parcel of land at Bushy Lake State Natural Area in Cumberland County, Beaver Dam Township, described in Deed Book 3588, Page 583, and shown as the 0.58 acre parcel within tract 2 on the survey prepared by Lewis G. Paschal, Professional Land Surveyor, entitled "Recombination Survey for State of North Carolina" dated April 1989 and December 2000, and filed in the State Property Office. The tract excluded from the State Nature and Historic Preserve under this subdivision is deleted from the State Parks System pursuant to G.S. 113-44.14. The State of North Carolina may~~

~~only exchange this land for other land for the expansion of Bushy Lake State Natural Area or sell this land and use the proceeds for that purpose. The State may not otherwise sell or exchange this land.~~

- (15) All lands and waters within the boundaries of Jockey's Ridge State Park as of ~~April 3, 2001~~, 6 May 2003 with the exception of the following tracts: The portion of those certain tracts or parcels of land at Jockey's Ridge State Park in Dare County, Nags Head Township, described in Deed Book 227, Page 499, and Deed Book 227, Page 501, and containing 33,901 square feet as shown on the survey prepared by Styons Surveying Services entitled "Raw Water Well Site 13 Jockey's Ridge State Park" dated March 7, 2001, and filed in the State Property Office; the portion of that certain tract or parcel of land at Jockey's Ridge State Park in Dare County, Nags Head Township, described in Deed Book 222, Page 726, and containing 42,909 square feet as shown on the survey prepared by Styons Surveying Services entitled "Raw Water Well Site 14 Jockey's Ridge State Park" dated March 7, 2001, and filed in the State Property Office; and the portion of that certain tract or parcel of land at Jockey's Ridge State Park in Dare County, Nags Head Township, described in Deed Book 224, Page 790, and Deed Book 224, Page 794, and containing 34,471 square feet as shown on the survey prepared by Styons Surveying Services entitled "Raw Water Well Site 15 Jockey's Ridge State Park" dated March 7, 2001, and filed in the State Property Office.
- (16) All lands and waters located within the boundaries of Mount Jefferson State Natural Area as of ~~April 3, 2001~~, 6 May 2003. With respect to the communications tower site on the top of Mount Jefferson and located on that certain tract or parcel of land at Mount Jefferson State Natural Area in Ashe County, West Jefferson Township, described in Deed Book F-3, Page 94, the State may provide space at the communications tower site to State public safety and emergency management agencies for the placement of antennas, repeaters, and other communications devices for public communications purposes. Notwithstanding G.S. 146-29.2, the State may lease space at the communications tower site to local governments in Ashe County for the placement of antennas, repeaters, and other communications devices for public communications purposes. State agencies and local governments that are authorized to place communications devices at the communications tower site pursuant to this subdivision may also locate at or near the communications tower site communications equipment that is necessary for the proper operation of the communications devices. The use of the communications tower site pursuant to this subdivision is authorized by the General Assembly as a purpose other than the public purposes specified in Article XIV, Section 5, of the North Carolina Constitution, Article 25B of Chapter 143 of the General Statutes, and Article 2C of Chapter 113 of the General Statutes."
- (17) All lands and waters within the Eno River State Park as of 6 May 2003 with the exception of the following tract: The portion of that certain tract or parcel of land at Eno River State Park in Durham County,

Durham Outside Township, described in Deed Book 435, Page 673, and Plat Book 87, Page 66, containing 11,000 square feet and being the portion of Lot No. 2 shown as the existing scenic easement hereby removed on the drawing prepared by Sear-Brown entitled "Recombination Plat Eno Forest Subdivision" bearing the preparer's file name 00-208-07.dwg, and filed with State Property Office. The tract excluded from the State Nature and Historic Preserve under this subdivision is deleted from the State Parks System pursuant to G.S. 113-44.14. The State of North Carolina may only exchange this land for other land for the expansion of Eno River State Park or sell this land and use the proceeds for that purpose. The State may not otherwise sell or exchange this land."

**SECTION 2.** The following tracts of land are removed from the State Nature and Historic Preserve pursuant to Section 5 of Article XIV of the Constitution of North Carolina:

- (1) The portion of that certain tract or parcel of land at Crowders Mountain State Park in Cleveland County, Number Four Township, described in Deed Book 1286, Page 85, and containing 1.64 acres as shown on the drawing prepared by the Division of Parks and Recreation entitled "Property to be Excepted Crowders Mountain State Park" dated 14 April 2003 and filed in the State Property Office.
- (2) The portion of those certain tracts or parcels of land at South Mountains State Park in Burke County, Lower Creek Township, described in Deed Book 925, Page 1284, and Deed Book 870, Page 1729 required for the right-of-way and easements for the relocation of SR 1904 within the Park and shown on the drawing prepared by Suttles Surveying P.A. entitled "Survey of the Proposed Centerline of the New Road Alignment for the State of North Carolina" bearing the preparer's file name 12455D.dwg, dated 10 April 2003 and filed in the State Property Office.
- (3) The portion of that certain tract or parcel of land at South Mountains State Park in Burke County, Morganton Township, described in Deed Book 28, Page 607, Deed Book 28, Page 467, and Plat Book 3, Page 78, and containing 0.33 acres as shown on the drawing prepared by Hawkins Land Surveying entitled "Subdivision for Trustees of Walker Top Baptist Church" dated 26 September 2001 and filed with the State Property Office.
- (4) The portion of that certain tract or parcel of land at Eno River State Park in Durham County, Durham Outside Township, described in Deed Book 435, Page 673, and Plat Book 87, Page 66, containing 11,000 square feet and being the portion of Lot No. 2 shown as the existing scenic easement hereby removed on the drawing prepared by Sear-Brown entitled "Recombination Plat Eno Forest Subdivision" bearing the preparer's file name 00-208-07.dwg, and filed with State Property Office.

**SECTION 3.** G.S. 143-260.8(e) reads as rewritten:

"(e) In order to provide accessible information to the public concerning the State Nature and Historic Preserve, every law accepting or removing properties in the Preserve shall be codified in the General Statutes. A certified copy of every law



accepting or removing properties in the Preserve shall be transmitted by the Secretary of State to the register of deeds in each county wherein these properties, or any part of them, are located, for filing and indexing in the grantor index."

**SECTION 4.** In accordance with G.S. 143-260.8(e), the Secretary of State is directed to forward a certified copy of this act to the register of deeds of each county in which any portion of the property dedicated and accepted or removed by this act as part of the State Nature and Historic Preserve is located.

**SECTION 5.** Waynesborough State Park is deleted from the State Parks System pursuant to G.S. 113-44.14.

**SECTION 6.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 12<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 12:55 p.m. on the 19<sup>th</sup> day of June, 2003.

## H.B. 892

## Session Law 2003-235

AN ACT TO DETERMINE WHETHER A DRIVER OF A TRUCK, TRACTOR, OR TRUCK TRACTOR TRAILER OF AN INTERSTATE OR INTRASTATE MOTOR CARRIER IS AN EMPLOYEE SUBJECT TO THE WORKERS' COMPENSATION ACT AND TO DEFINE THE OBLIGATIONS UNDER THE ACT FOR SUCH DRIVERS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Article 1 of Chapter 97 of the General Statutes is amended by adding a new section to read:

**"§ 97-19.1. Truck, tractor, or truck tractor trailer driver's status as employee or independent contractor.**

An individual in the interstate or intrastate carrier industry who operates a truck, tractor, or truck tractor trailer licensed by a governmental motor vehicle regulatory agency may be an employee or an independent contractor under this Article dependent upon the application of the common law test for determining employment status.

Any principal contractor, intermediate contractor, or subcontractor, irrespective of whether such contractor regularly employs three or more employees, who contracts with an individual in the interstate or intrastate carrier industry who operates a truck, tractor, or truck tractor trailer licensed by a governmental motor vehicle regulatory agency and who has not secured the payment of compensation in the manner provided for employers set forth in G.S. 97-93 for himself personally and for his employees and subcontractors, if any, shall be liable as an employer under this Article for the payment of compensation and other benefits on account of the injury or death of the independent contractor and his employees or subcontractors due to an accident arising out of and in the course of the performance of the work covered by such contract.

The principal contractor, intermediate contractor, or subcontractor may insure any and all of his independent contractors and their employees or subcontractors in a blanket policy, and when insured, the independent contractors, subcontractors, and employees will be entitled to compensation benefits under the blanket policy.

A principal contractor, intermediate contractor, or subcontractor may include in the governing contract with an independent contractor in the interstate or intrastate carrier industry who operates a truck, tractor, or truck tractor trailer licensed by a governmental

motor vehicle regulatory agency an agreement for the independent contractor to reimburse the cost of covering that independent contractor under the principal contractor's, intermediate contractor's, or subcontractor's coverage of his business."

**SECTION 2.** This act is effective when it becomes law and applies to any claim arising on or after October 1, 2003.

In the General Assembly read three times and ratified this the 12<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 12:56 p.m. on the 19<sup>th</sup> day of June, 2003.

**H.B. 1123****Session Law 2003-236**

AN ACT TO EXPRESSLY PROVIDE FOR LIMITED GUARDIANSHIPS FOR INCOMPETENT PERSONS AND TO CLARIFY THE DUTY OF A GUARDIAN AD LITEM APPOINTED TO REPRESENT A PERSON IN AN INCOMPETENCY ADJUDICATION AND TO CLARIFY THE APPOINTMENT OF GUARDIAN AD LITEMS UNDER RULE 17 OF THE RULES OF CIVIL PROCEDURE.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 35A-1212(a) reads as rewritten:

"(a) The clerk shall make such inquiry and receive such evidence as the clerk deems necessary to determine:

- (1) The nature and extent of the needed guardianship;
- (2) The assets, liabilities, and needs of the ward; and
- (3) Who, in the clerk's discretion, can most suitably serve as the guardian or guardians.

If the clerk determines that the nature and extent of the ward's capacity justifies ordering a limited guardianship, the clerk may do so."

**SECTION 2.** G.S. 35A-1215(b) reads as rewritten:

"(b) ~~The~~ If the clerk orders a limited guardianship as authorized by G.S. 35A-1212(a), the clerk may order that the ward retain certain legal rights and privileges to which he—the ward was entitled before he—the ward was adjudged incompetent; provided, any such incompetent. Any order of limited guardianship shall include findings as to the nature and extent of the ward's incompetence as it relates to the ward's need for a guardian or guardians."

**SECTION 3.** G.S. 35A-1107 reads as rewritten:

"§ 35A-1107. **Right to counsel or guardian ad litem.**

(a) The respondent is entitled to be represented by counsel of his own choice or by an appointed guardian ad litem. Upon filing of the petition, an attorney shall be appointed as guardian ad litem to represent the respondent unless the respondent retains his own counsel, in which event the guardian ad litem may be discharged. Appointment and discharge of an appointed guardian ad litem shall be in accordance with rules adopted by the Office of Indigent Defense Services.

(b) An attorney appointed as a guardian ad litem under this section shall represent the respondent until the petition is dismissed or until a guardian is appointed under Subchapter II of this Chapter. After being appointed, the guardian ad litem shall personally visit the respondent as soon as possible and shall make every reasonable effort to determine the respondent's wishes regarding the incompetency proceeding and

any proposed guardianship. The guardian ad litem shall present to the clerk the respondent's express wishes at all relevant stages of the proceedings. The guardian ad litem also may make recommendations to the clerk concerning the respondent's best interests if those interests differ from the respondent's express wishes. In appropriate cases, the guardian ad litem shall consider the possibility of a limited guardianship and shall make recommendations to the clerk concerning the rights, powers, and privileges that the respondent should retain under a limited guardianship."

**SECTION 4.** G.S. 35A-1102 reads as rewritten:

"§ 35A-1102. **Scope of law; exclusive procedure.**

This Article establishes the exclusive procedure for adjudicating a person to be an incompetent adult or an incompetent child. However, nothing in this Article shall interfere with the authority of a judge to appoint a guardian ad litem for a party to litigation under Rule 17(b) of the North Carolina Rules of Civil Procedure."

**SECTION 5.** This act becomes effective December 1, 2003.

In the General Assembly read three times and ratified this the 12<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 12:57 p.m. on the 19<sup>th</sup> day of June, 2003.

**S.B. 494**

**Session Law 2003-237**

AN ACT TO ALLOW THE TOWN OF CARRBORO TO REQUIRE SPRINKLERS IN BARS, CLUBS, AND OTHER SIMILAR PLACES OF PUBLIC ASSEMBLY THAT HAVE GATHERINGS OF MORE THAN ONE HUNDRED PEOPLE AND SELL ALCOHOLIC BEVERAGES AND TO AUTHORIZE THE TOWN OF CHAPEL HILL TO POSTPONE FOR TWELVE MONTHS THE APPROVAL OF SPECIAL USE PERMITS AND SITE PLANS PROPOSED ON SITES RESERVED AS SCHOOL SITES ON THE TOWN'S ADOPTED COMPREHENSIVE LAND-USE PLAN.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Section 9-5 of the Charter of the Town of Carrboro, being Chapter 476 of the 1987 Session Laws, as amended, reads as rewritten:

"Section 9-5. Sprinkler Systems.

(a) Notwithstanding any provision of the North Carolina State Building Code or any general or local law to the contrary, the board of aldermen may adopt an ordinance requiring that sprinkler systems be installed in all of the following types of buildings constructed within the town or its extraterritorial planning jurisdiction: (i) buildings in excess of 50 feet in height; (ii) nonresidential buildings containing at least 5,000 square feet of floor surface area; or (iii) buildings designed for assembly occupancy (as defined in the North Carolina State Building Code) that accommodate more than 25 people. This ordinance applies to existing buildings only to the extent and under the circumstances that the provisions of the North Carolina State Building Code apply to preexisting buildings.

(b) Notwithstanding any provision in the North Carolina State Building Code or any other provision of law, the Board of Aldermen may adopt an ordinance requiring that sprinkler systems be installed in bars, clubs, and other places of public assembly that are designed for occupancy by 100 or more persons and that sell alcoholic beverages. The ordinance does not apply to restaurants. This ordinance may be made

applicable to any new occupancy prior to issuance of a certificate of occupancy. The ordinance may also be made applicable to any existing occupancy at the end of a period of three years following the date of enactment of the ordinance."

**SECTION 2.** G.S. 160A-381 is amended by adding a new subsection to read:

"(d) An ordinance enacted under the authority of this Part may provide for the reservation of school sites in accordance with comprehensive land-use plans approved by the council or the planning agency. In order for this authorization to become effective, before approving such plans the council or planning agency and the board of education with jurisdiction over the area shall jointly determine the specific location and size of any school sites to be reserved, which information shall appear in the comprehensive land-use plan. Prior to the adoption of such plans (or of any amendment to such plans) affecting areas reserved for schools, the owner of that parcel of land reserved for schools or proposed to be reserved for schools, or any portion thereof, as shown on the county tax records, and the owners of all parcels of land abutting that parcel, as shown on the county tax records, shall be mailed a notice of the proposed plans or amendment to plans by first class mail at the addresses shown on such county tax records. Whenever a special use permit or site plan development is submitted for approval which includes part or all of a school site to be reserved under the plan, the council or planning agency shall immediately notify the board of education and the board shall promptly decide whether it still wishes the site to be reserved. If the board of education does not wish to reserve the site, it shall so notify the council or planning agency and no site shall be reserved. If the board does wish to reserve the site, the special use permit or site plan development shall not be approved without such reservation. The board of education shall then have 12 months beginning on the date of final approval of the special use permit or site plan development within which to acquire the site by purchase or by initiating condemnation proceedings. If the board of education has not purchased or begun proceedings to condemn the site within 12 months, the owner and applicant for the special use permit or site plan development may treat the land as freed of the reservation."

**SECTION 3.** Section 1 of this act applies to the Town of Carrboro only. Section 2 of this act applies to the Town of Chapel Hill only and shall apply in that area where the Town of Chapel Hill exercises territorial planning jurisdiction, including any area under that Town's jurisdiction pursuant to a Joint Planning Agreement with Orange County.

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

In the General Assembly read three times and ratified this the 19<sup>th</sup> day of June, 2003.

Became law on the date it was ratified.

## **H.B. 248**

## **Session Law 2003-238**

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

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Article IX of the Charter of the City of Wilmington, being Chapter 495 of the 1977 Session Laws, is hereby amended by adding a new section to read:

"Section 9.7. Personnel Records.

(a) Notwithstanding G.S. 160A-168, in order to facilitate citizen review of the police disciplinary process, the city manager or the chief of police may release the disposition of disciplinary charges against a police officer and the facts relied upon in determining the disposition to the person alleged to have been aggrieved by the officer's actions or to that person's survivor and to any board or commission designated by the city council to review the police disciplinary process. Members of such board or commission shall maintain as confidential all personnel information to which they gain access as a member of such board or commission. Each member of such board or commission shall execute and adhere to a Confidentiality Agreement that is satisfactory to the City. For purposes of this subsection, the 'disposition of disciplinary charges' includes determinations that the charges are sustained, not sustained, unfounded, exonerated, classified as an information file, or classified as any other disciplinary disposition category subsequently adopted by the City. In the event that a council-designated board or commission hears an appeal of a police disciplinary case, the disposition of the case, as defined in this subsection, as well as the facts and circumstances of the case, may be released by the city manager or the chief of police to any person whose presence is necessary to the appeals hearing as determined by the chief of police. In addition, the facts and circumstances of the case shall be made available to the police officer.

(b) Notwithstanding G.S. 160A-168, the portion of a video or audiotape produced by a mobile video recorder (MVR) in a police department vehicle which recorded an event resulting in a citizen complaint against a police officer may be reviewed by the person alleged to have been aggrieved by the officer's actions."

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

In the General Assembly read three times and ratified this the 23<sup>rd</sup> day of June, 2003.

Became law on the date it was ratified.

**S.B. 706**

**Session Law 2003-239**

AN ACT TO ALLOW A PUBLIC UNIVERSITY TO ADD BLEACHERS TO AN EXISTING SOFTBALL FIELD WITHOUT HAVING TO CONSTRUCT ADDITIONAL PLUMBING FACILITIES.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Notwithstanding any requirements for additional plumbing facilities imposed under Section 403.3.1.4, Table 403.1 and Table 403.4 of Chapter 4 of the North Carolina Plumbing Code, 2002 Edition, a public university, as part of its addition of bleachers to an existing softball field, shall not be required to provide facilities in addition to those facilities currently existing at the stadium.

**SECTION 2.** This act applies to public universities located in counties that (i) have a population of 160,000 or more according to the most recent decennial federal census; (ii) border the Atlantic Ocean; and (iii) border no more than two other counties that are a part of this State.

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

In the General Assembly read three times and ratified this the 12<sup>th</sup> day of June, 2003.

Became law on the date it was ratified.

**S.B. 57****Session Law 2003-240**

AN ACT TO ALLOW THE TOWNS OF CAROLINA BEACH, WRIGHTSVILLE BEACH, AND YADKINVILLE TO USE WHEEL LOCKS ON ILLEGALLY PARKED VEHICLES.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** The council of a city may provide, by ordinance, for the use of wheel locks on illegally parked vehicles for which there are three or more outstanding, unpaid, and overdue parking tickets issued on at least three separate days. The ordinance shall provide for notice or warning to be affixed to the vehicle, immobilization, towing, impoundment, appeal hearing, an immobilization fee not to exceed fifty dollars (\$50.00), and charges for towing and storage. The city shall not be responsible for any damage to an immobilized illegally parked vehicle resulting from unauthorized attempts to free or move that vehicle.

**SECTION 2.** Section 2 of Chapter 291 of the 1993 Session Laws, as amended by Chapter 381 of the 1995 Session Laws, S.L. 1997-218, and S.L. 2002-127, reads as rewritten:

"Sec. 2. This act applies to the Cities of Durham, Greensboro, Lenoir, Monroe, Raleigh, ~~and Winston-Salem~~ Winston-Salem, and the Town of Yadkinville only. This act shall also apply to the City of Wilmington, but only as to the area in the central business district as defined in that City's zoning ordinance as of June 1, 1997."

**SECTION 3.** Section 1 of this act applies to the Towns of Carolina Beach and Wrightsville Beach only.

**SECTION 4.** Section 2 of this act applies to the Town of Yadkinville only.

**SECTION 5.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 24<sup>th</sup> day of June, 2003.

Became law on the date it was ratified.

**H.B. 163****Session Law 2003-241**

AN ACT TO ALLOW THE CITY OF KINGS MOUNTAIN TO ANNEX CERTAIN PROPERTIES OWNED BY THE TOWN.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** The City of Kings Mountain may annex any or all of the following city-owned properties by voluntary annexation under G.S. 160A-58.7 without such annexations satisfying the requirements of G.S. 160A-58.1:

- (1) That real estate reflected in the records for Cleveland County, North Carolina, as a portion of parcel being parcel 6-3-1-28 in the Tax Mapping Office, the same being that real estate upon which there is situated the Water Treatment Plant at the John H. Moss Reservoir, the

John H. Moss Reservoir Dam, the campsite and the buildings and structure located adjacent thereto, such property being bounded by the Elliot M. Johnson Property (now or formerly) as shown in Deed Book 10-M at Page 460 of the Cleveland County Registry; that property of Elliot M. Johnson (now or formerly) as shown in Deed Book 8-J at Page 472 of the Cleveland County Registry; the right-of-way margin of Oak Grove Road; the Craver and/or Austell properties as shown on Tax Map as Map 3137; Lot 1; Parcel 8; the Frank Meeker, Jr. property (now or formerly) as shown in Deed Book 1012 at Page 353 of the Cleveland County Registry; and further, a boundary which is 736.0' above mean sea level elevation, excluding the waters of the John H. Moss Reservoir.

- (2) That real estate which is commonly referred to as the "Camp Creek Church Road Picnic Area", and such being that acreage reflected on Tax Map 3137, Block 1, Lot 1; Tax Map 3137, Block 1, Lot 2; Tax Map 3137, Block 1, Lot 3; and Tax Map 3137, Block 1, Lot 4, in the Tax Mapping Office for Cleveland County, North Carolina, with the boundary on that side of the property which is bounded by the waters of the John H. Moss Reservoir, such having a boundary of 736.0' above mean sea level elevation.

**SECTION 2.** The City of Kings Mountain may exercise the authority in Section 1 of this act only under the following conditions:

- (1) The area proposed for annexation must be owned by the City of Kings Mountain.
- (2) The City of Kings Mountain must be able to provide the same services within the area proposed for annexation that it provides within the corporate limits.

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

In the General Assembly read three times and ratified this the 24<sup>th</sup> day of June, 2003.

Became law on the date it was ratified.

## H.B. 232

## Session Law 2003-242

AN ACT TO INCORPORATE THE TOWN OF MILLS RIVER.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** A Charter for the Town of Mills River is enacted to read:

"CHARTER OF THE TOWN OF MILLS RIVER.

"ARTICLE I. INCORPORATION AND CORPORATE BOUNDARIES.

"Section 1.1. **Incorporation and Corporate Powers.** The inhabitants of the Town of Mills River are a body corporate and politic under the name 'Town of Mills River'. Under that name they shall have all the powers, duties, rights, privileges, and immunities conferred and imposed on cities by the general law of North Carolina.

"ARTICLE II. CORPORATE BOUNDARIES.

"Section 2.1. **Town Boundaries.** Until modified in accordance with the law, the boundaries of the Town of Mills River are as follows:

Beginning at a point at the Buncombe-Henderson County line on Pennsylvania Road (SR 1348) and traveling South to the Intersection with North Mills River Road (SR 1345). Turning Northwest on North Mills River Road (SR 1345) until the Intersection with Whitaker Lane (SR 1341). Turning South on Whitaker Lane (SR 1341) until the Intersection with South Mills River Road (SR 1338). Continuing South along Henderson County Land Records parcel lines known as 0802005 along the Southern edge; 9933871 along the Southern edge; 0800935 along the Northern and Eastern edges; 9900853 along the Eastern edge; 0801109 along the Eastern edge; 9965467 along the Southeastern edge; 9935627 along the Southeastern edge; 9935626 along the Southern edge; until reaching the Mills River Fire District line. Continuing West along the United States Forest Service property line and the Mills River Fire District line across what is commonly known as "Forge Mountain" to the Transylvania County line. Following the Transylvania County line South to the Mills River Fire District line and then along with the Mills River Fire District line Southeast to Ladson Road. Turning East on Ladson Road (SR 1314) until reaching the Intersection of Schoolhouse Road (SR 1426). Continuing East until the Intersection with Haywood Road (Hwy 191). Turning North on Haywood Road (Hwy 191) until reaching Hooper Lane (SR 1353). Turning East on Hooper Lane (SR 1353), including the property on the Southeast side of the road listed with the Henderson County Land Records as: 0803205 along the Eastern edge; 9945652 along the Eastern and Northern edges; and rejoining Hooper Lane (SR 1353). Following Hooper Lane (SR 1353) until reaching Jeffress Road (SR 1345). Turning North along Jeffress Road (SR 1345) until its Intersection with Butler Bridge Road (SR 1352). Following Butler Bridge Road (SR 1352) Northeast until reaching the Mills River Fire District line. Following the Mills River Fire District line North and Northwest back to the Buncombe-Henderson County line on Pennsylvania Road (SR 1348).

"ARTICLE III. GOVERNING BODY.

"Section 3.1. **Structure of Governing Body; Number of Members.** The governing body of the Town of Mills River is the Town Council, which shall have five members.

"Section 3.2. **Temporary Officers.** Until the organizational meeting after the initial election in 2003 provided for by Section 4.1 of this Charter, Roger D. Snyder, Lois M. Pryor, Wayne S. Carland, James R. Cowan, and Linda F. Brittain are appointed members of the Town Council of the Town of Mills River, and they shall possess and exercise the powers granted to the governing body until their successors are elected or appointed and qualified pursuant to this Charter. If any person named in this section is unable to serve, the remaining temporary officers shall, by majority vote, appoint a person to serve until the initial municipal election is held in 2003.

"Section 3.3. **Manner of Electing Town Council; Terms of Office.** Two of the Council members shall be elected at large from the residents of the Town and three shall be elected from each of Districts 1, 2, and 3 respectively, as provided in Article IV of this Charter. The qualified voters of the entire Town shall elect all the members of the Town Council, and, except as provided in this section, they shall serve four-year terms. In 2003, two Council members shall be elected at large and they shall serve for four-year terms, and one Council member shall be elected from each of Districts 1, 2, and 3, respectively and they shall serve for two-year terms. In 2005, and quadrennially thereafter, one Council member shall be elected from each of Districts 1, 2, and 3 respectively and they shall serve for four-year terms. In 2007, and quadrennially



thereafter, two members shall be elected at large and they shall serve for four-year terms.

"Section 3.4. **Manner of Electing Mayor; Term of Office; Duties.** At the organizational meeting following each municipal election, the Town Council shall elect one of its members as Mayor, and the Mayor shall serve at the pleasure of the Town Council. The Mayor shall be the official head of Town government and shall preside at all meetings of the Town Council. The Mayor shall exercise such powers and duties as conferred by the general laws of this State and this Charter and as directed by the Town Council. In the case of a vacancy in the office of Mayor, the remaining members of the Town Council shall choose from their membership a person to serve as Mayor for the unexpired term.

"Section 3.5. **Vacancies.** Notwithstanding the provisions of G.S. 160A-63, a person appointed by the Town Council to fill a vacancy on the Council shall serve for the remainder of the unexpired term.

#### "ARTICLE IV. ELECTIONS.

"Section 4.1. **Conduct of Town Elections.** Town elections shall be conducted on a nonpartisan basis and the results determined by plurality, as provided in G.S. 163-292. Elections shall be conducted by the Henderson County Board of Elections in accordance with general law, except as may be modified by this Charter.

"Section 4.2. **Regular Municipal Elections; District Boundaries.** Regular municipal elections shall be held in each odd-numbered year in accordance with the uniform municipal election laws of North Carolina. For purpose of the election of Town Council members, the Town is divided into three geographical subdivisions, known as districts, and all qualified voters of the Town may cast a vote for each seat. A written description or map showing the current boundaries of the three election districts shall be maintained in the office of the Town Clerk and shall be available for public inspection. The district boundaries may be amended periodically pursuant to the provisions of general law. Whenever areas are hereafter annexed and made part of the Town, the Town Council shall, by ordinance, redefine and rearrange the three election districts so as to include the annexed areas. The ordinance shall be adopted at least seven days prior to the opening of candidate filing for the municipal election next succeeding the date of any annexation and shall provide for three election districts of approximately equal population. In redefining and rearranging the election district lines, the Town Council shall follow as nearly as practical existing district lines.

"Section 4.3. **Residency Required.** Candidates for election to district seats on the Town Council shall reside in and represent their respective districts, but all candidates for Town Council shall be nominated and elected by all the voters of the Town.

#### "ARTICLE V. ADMINISTRATION.

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

#### "ARTICLE VI. TAXES AND BUDGET ORDINANCE.

"Section 6.1. **Commencement of Tax Collection.** From and after the effective date of this act, the citizens and property in the Town of Mills River shall be subject to municipal taxes levied for the year beginning July 1, 2003, and for that purpose the Town shall obtain from Henderson County a record of property in the area herein incorporated which was listed for property taxes as of January 1, 2003.

"Section 6.2. **Budget.** The Town may adopt a budget ordinance for fiscal year 2003-2004 without following the timetable in the Local Government Budget and Fiscal Control Act but shall follow the sequence of actions in the spirit of the act insofar as is practical. For fiscal year 2003-2004, ad valorem taxes may be paid at par or face amount within 90 days of adoption of the budget ordinance and thereafter in accordance with the schedule in G.S. 105-360. If the effective date of the incorporation is prior to July 1, 2003, the Town may adopt a budget ordinance for fiscal year 2002-2003 without following the timetable in the Local Government Budget and Fiscal Control Act but shall follow the sequence of actions in the spirit of the act insofar as practical. No ad valorem taxes may be levied for the 2002-2003 fiscal year.

"ARTICLE VII. ORDINANCES.

"Section 7.1. **Ordinances.** Except as otherwise provided in this Charter, the Town of Mills River is authorized to adopt such ordinances as the Town Council deems necessary to the governance of the Town.

"ARTICLE VIII. MISCELLANEOUS PROVISIONS.

"Section 8.1. **Expenses.** The entities sponsoring incorporation shall be entitled to recover from the Town expenses of sponsoring incorporation in the amount of five hundred dollars (\$500.00) or greater, provided that the entities seeking recovery shall submit written requests for reimbursement and shall be subject to annual audit. The Town Council may reimburse expenses after the first full fiscal year. To receive reimbursement, all requests must be submitted prior to the end of the second fiscal year."

**SECTION 2.** The temporary officers of the Town of Mills River shall, at least seven days prior to the opening of candidate filing for the initial municipal elections, adopt a plan to divide the Town into three districts for the purpose of municipal elections as provided in Article IV of this Charter. The plan shall immediately be transmitted to the Henderson County Board of Elections.

**SECTION 3.** Notwithstanding G.S. 163-294.2, the filing period for the Town Council for the 2003 municipal election shall open at 12:00 noon on the first Monday in August and shall close at 12:00 noon on the first Friday in August.

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

In the General Assembly read three times and ratified this the 24<sup>th</sup> day of June, 2003.

Became law on the date it was ratified.

**H.B. 511**

**Session Law 2003-243**

**AN ACT TO EXEMPT CERTAIN TOWN-OWNED PROPERTIES OF THE TOWN OF ANDREWS FROM THE CEILING ON VOLUNTARY SATELLITE ANNEXATIONS.**

*The General Assembly of North Carolina enacts:*

**SECTION 1.** The Town of Andrews may annex any or all of the following town-owned properties by voluntary annexation under G.S. 160A-58.7 without such annexations counting against the ceiling on annexations under G.S. 160A-58.1(b)(5):

- (1) Town of Andrews Wastewater Treatment Plant. A 12-acre tract of land located at the end of Reagan Street near Andrews. This tract of land is located on the western side of the current Town limits with a tract of

open, undeveloped land separating the existing Town limits from the Wastewater Treatment Plant.

- (2) Town of Andrews Water Treatment Plant. A three and one-half acre tract of land located north of the existing town limits on Dan Holland Creek Road.
- (3) Town of Andrews Reservoir and Dam. A 60-acre tract of land located north of the existing Town limits at the end of Dan Holland Creek Road.
- (4) Town of Andrews Watershed. An 883-acre tract of land located on the headwaters of Beaver Creek north of the Town of Andrews.

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

In the General Assembly read three times and ratified this the 24<sup>th</sup> day of June, 2003.

Became law on the date it was ratified.

## H.B. 725

## Session Law 2003-244

AN ACT REMOVING CERTAIN DESCRIBED PROPERTY FROM THE CITY OF CLAREMONT AND THE CITY OF CONOVER AND ANNEXING CERTAIN DESCRIBED PROPERTY TO THE CITY OF CLAREMONT.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** The following described property is removed from the corporate boundaries of the City of Claremont:

Being all or Parcel Five (Boyce Roop Hollar, Jr. Family) as adopted in the annexed ordinance of the City of Claremont as appears in City of Claremont Ordinance Book 2 at Page 921 and in the Office of the Register of Deeds of Catawba County in Book 1575 at Page 147 (said description should be read so as to include in the next to the last call before the number 20 the following words: "in a westerly direction"), and said Parcel Five being more particularly described on that certain annexation map of the City of Claremont recorded in the Office of the Register of Deeds of Catawba County in Plat Book 24 at page 51 on the 25th day of August, 1988, with reference to said map being made for more particular description.

**SECTION 2.** The following described property is removed from the corporate boundaries of the City of Conover and added to the corporate limits of the City of Claremont:

Beginning at an iron pin at the northeast corner of what is designated as the Margaret H. Sherrill property on that certain annexation map of the City of Conover recorded in the Catawba County Registry in Plat Book 23 at Page 52 on the 27th day of January, 1988 (hereinafter referred to as "Map"), and running thence from said beginning point South 23° East 410 feet, more or less, with the Sherrill line to a point in the southern right-of-way line of US Highway 70 (formerly US Highway 64-70); thence with said right-of-way line South 68° West 800 feet, more or less, to the northeast corner of Boyce Roop Hollar, Jr. property; thence continuing with the southern right-of-way of said highway in a westerly direction 300 feet, more or less, to a point that is perpendicular across said highway from the southeast corner of the Boyce Roop Hollar, Jr. property and the northern right-of-way of said highway, said Hollar property being described in that certain deed recorded in Book 2138 at Page 1313 of the Catawba County Registry thence across said highway in a perpendicular direction 60 feet to the

southeast corner of Boyce Roop Hollar, Jr. described in said Book 2138 at Page 1313, Catawba County Registry; thence with the eastern line of Boyce Roop Hollar, Jr. property described in Book 2138 at Page 1313, Catawba County Registry North 18° 30' 39" West 200 feet to the Conover city limits as shown on the map; thence with the Conover city limits shown on said map in a northeasterly direction 765 feet, more or less, to the Conover city limits line in the western line of Margaret H. Sherrill; thence with Sherrill first North 4° West 150 feet; thence secondly with Sherrill's line North 69° 15' East 250 feet, more or less, to the point of Beginning (and for more particular description see the annexation Map) recorded in Plat Book 23 at Page 52 and the deed to Boyce Roop Hollar, Jr. dated March 22, 1999, and recorded in Book 2138 at Page 1313, Catawba County Registry.

**SECTION 3.** This act becomes effective June 30, 2003.

In the General Assembly read three times and ratified this the 24<sup>th</sup> day of June, 2003.

Became law on the date it was ratified.

## H.B. 70

### Session Law 2003-245

AN ACT TO REPEAL A LOCAL ACT SO THAT THE GENERAL LAW ON DEFINITION OF A SUBDIVISION APPLIES IN PENDER COUNTY.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Chapter 204 of the 1991 Session Laws (as amended by Section 36 of Chapter 761 of the 1991 Session Laws) is repealed.

**SECTION 2.** This act becomes effective January 1, 2004, and applies to subdivisions given final approval on or after that date.

In the General Assembly read three times and ratified this the 25<sup>th</sup> day of June, 2003.

Became law on the date it was ratified.

## H.B. 516

### Session Law 2003-246

AN ACT AUTHORIZING THE CITIES OF ROCKINGHAM AND STATESVILLE AND THE TOWN OF SMITHFIELD TO LIMIT THE CLEAR-CUTTING OF TREES IN BUFFER ZONES PRIOR TO DEVELOPMENT.

*The General Assembly of North Carolina enacts:*

**SECTION 1.(a)** A municipality may adopt ordinances to regulate the removal and preservation of existing trees and shrubs prior to development within a perimeter buffer zone of up to 50 feet along public roadways and property boundaries adjacent to developed properties and up to 25 feet along property boundaries adjacent to undeveloped properties.

**SECTION 1.(b)** Ordinances adopted pursuant to this act shall:

- (1) Provide that the required buffer area shall not exceed twenty percent (20%) of the area of the tract, net of public road rights-of-way, and any required conservation easements.
- (2) Provide that buffer zones that adjoin public roadways shall be measured from the edge of the public road right-of-way.

- (3) Provide that tracts of two acres or less, net of public road rights-of-way, that are zoned for single-family residential use are exempt from the requirements of the ordinances.
- (4) Provide that the ordinances are limited to situations where undeveloped property is planned or zoned in accordance with adopted municipal plans and zoning regulations.
- (5) Provide that a survey of individual trees is not required.
- (6) Include reasonable provisions for access onto and within the subject property.
- (7) Exclude normal forestry activities on property taxed under the present-use value standard or conducted pursuant to a forestry management plan prepared or approved by a forester registered pursuant to Chapter 89B of the General Statutes. However, for such properties, a municipality may deny a building permit or refuse to approve a site or subdivision plan for a period of three years following completion of the harvest if all or substantially all of the perimeter buffer trees that should have been protected were removed from the tract of land for which the permit or plan approval is sought. A municipality may deny a permit or refuse to approve a site or subdivision plan for a period of two years if the owner replants the buffer area within 120 days of harvest with plant material that is consistent with buffer areas required under the municipality's ordinances.

**SECTION 2.** Before adopting an ordinance authorized by Section 1 of this act, the governing board of the municipality shall hold a public hearing on the proposed ordinance. Notice of the public hearing shall be given in accordance with G.S. 160A-364.

**SECTION 3.** Nothing in this act shall be construed to limit or be limited by any other existing laws or ordinances.

**SECTION 4.** This act shall apply only to the Cities of Rockingham and Statesville and the Town of Smithfield and to property located within the Cities' and Town's corporate limits and extraterritorial planning jurisdiction under Article 19 of Chapter 160A of the General Statutes.

**SECTION 5.** This act becomes effective January 1, 2004.

In the General Assembly read three times and ratified this the 25<sup>th</sup> day of June, 2003.

Became law on the date it was ratified.

## **H.B. 773**

## **Session Law 2003-247**

AN ACT TO ALLOW THE TOWN OF CHAPEL HILL TO REQUIRE SPRINKLERS IN BARS, CLUBS, AND OTHER SIMILAR PLACES OF PUBLIC ASSEMBLY.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Notwithstanding any provision of the State Building Code or any public or local law to the contrary, including, but not limited to, Chapter 143 of the General Statutes, a town may require by ordinance the installation of sprinkler systems in public assembly occupancies licensed to serve alcoholic beverages, other than restaurants as defined in G.S. 18B-1000(6), as follows:

- (a) Prior to issuance of a certificate of occupancy:
  - (1) Any new occupancy to be established with a rated occupancy load exceeding 200 persons and serving alcohol under a North Carolina ABC classification of private club or retail on-site consumption of mixed drink or malt beverage; or
  - (2) Any new occupancy to be established with a rated occupancy load exceeding 100 persons and serving alcohol under a North Carolina ABC classification of private club or retail on-site consumption of mixed drink or malt beverage and that has any of its required egress points one storey or more above or below grade.
- (b) Within five years of the enactment of the requiring ordinance:
  - (1) Any existing occupancy with a rated occupancy load exceeding 200 persons and serving alcohol under a North Carolina ABC classification of private club or retail on-site consumption of mixed drink or malt beverage; or
  - (2) Any existing occupancy with a rated occupancy load exceeding 150 persons and serving alcohol under a North Carolina ABC classification of private club or retail on-site consumption of mixed drink or malt beverage and that has any of its required egress points one storey or more above or below grade.

**SECTION 2.** This act applies to the Town of Chapel Hill only.

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

In the General Assembly read three times and ratified this the 25<sup>th</sup> day of June, 2003.

Became law on the date it was ratified.

## H.B. 818

## Session Law 2003-248

AN ACT TO PROVIDE FOR THE SAFEKEEPING OF MILITARY DISCHARGE DOCUMENTS AND TO PREVENT DISCLOSURE TO UNAUTHORIZED PARTIES.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 47-113.1 is repealed.

**SECTION 2.** Chapter 47 of the General Statutes is amended by adding a new section to read:

**"§ 47-113.2. Restricting access to military discharge documents.**

(a) All military discharge documents filed on or after January 1, 2004, shall be considered a public record, but for confidential safekeeping and restricted access to such documents, these documents will be filed with the registers of deeds in this State. These documents are exempt from public inspection and access except as allowed in subsection (b) of this section.

(b) Definitions:

(1) Authorized party. – Four categories of authorized parties are recognized with respect to access to military discharge documents under subsection (d) of this section:

a. The subject of the document.

- b. Agents and representatives of the subject authorized in writing:
    - 1. By the subject or subject's widow or widower in a notarized authorization.
    - 2. By a court to represent subject, or
    - 3. By the subject's executor acting on behalf of a deceased subject.
  - c. Authorized agents of the Division of Veterans Affairs, the United States Department of Veterans Affairs, the Department of Defense, or a court official with an interest in assisting the subject or the deceased subject's beneficiaries to obtain a benefit.
  - d. Agents or representatives of the North Carolina State Archives.
    - (2) Filing office. – The office where military discharge documents are recorded, registered, or filed in this State is the register of deeds.
    - (3) Military discharge document. – Any document that purports to represent a notice of separation from or service in any armed forces of the United States or of any state, including, but not limited to, Department of Defense Form 214 or 215, WD AGO 53, WD AGO 55, WD AGO 53-55, NAVMC 78-PD, and NAVPERS 553, or any other letter relating to the separation from the armed forces.
- (c) A military discharge document shall be accepted for filing upon presentation in person.
- (c1) The filing officer may refuse to accept any document that is:
    - (1) Not submitted in person by an authorized party in accordance with subsection (b) of this section.
    - (2) Not an original, a carbon copy, or a photographic copy issued or certified by an agency of federal or State government.
  - (d) No copy of a military discharge document or any other information from such document filed after the effective date of this act shall be made available other than in accordance with subsection (b) or (h) of this section.
    - (d1) Certified copies of a military discharge document will be made available only in accordance with subsection (e) of this section and only by individual request.
    - (d2) Uncertified copies of a military discharge document will be made available to an authorized party in accordance with subsection (b) of this section and only by individual request.
  - (e) The North Carolina Association of Registers of Deeds and the Division of Veterans Affairs shall adopt before January 1, 2004, such request forms and associated rules as are required to implement the provisions of this section. All filing offices shall use the forms and comply with the rules, as adopted.
    - (e1) Completed request forms shall be maintained in the register of deeds for a period of one year.
    - (e2) The request forms shall not be considered public records and are subject to the same restricted access as the military discharge document.
  - (f) In the event images of and the index to military discharge documents filed prior to January 1, 2004, have not been commingled with other publicly available document images and their index in a filing office, the images and the index will be maintained and are subject to all the provisions of this section that apply to newly filed documents.

(g) The register of deeds shall, to the greatest extent possible, take appropriate protective actions in accordance with any limitations determined necessary by the register of deeds with regard to records that were filed before the effective date of this act.

(h) Subsection (d) of this section shall not apply to images of military discharge documents that have been on file for over 50 years.

(i) There shall be no fee charged for filing military discharge documents or for providing certified copies of military discharge documents provided to those who have a right to access under subsection (d) of this section. Uncertified copy of a military discharge document that becomes public record under subsection (h) of this section is subject to fee as determined in G.S. 161-10(a)(11).

(j) Filing offices shall be responsible for the cost of compliance with this section.

(k) Recording officials shall not be liable for any damages that may result from good faith compliance with the provisions of this section.

(l) The words 'register of deeds' appearing in this section shall be interpreted to mean 'register of deeds, assistant register of deeds, or deputy register of deeds'.

**SECTION 3.** This act becomes effective January 1, 2004, except that actions may be taken under the first sentence of G.S. 47-113.2(e) when this act becomes law.

In the General Assembly read three times and ratified this the 23<sup>rd</sup> day of June, 2003.

Became law upon approval of the Governor at 12:32 p.m. on the 26<sup>th</sup> day of June, 2003.

## S.B. 694

## Session Law 2003-249

AN ACT TO PROVIDE IN THE SAME MANNER AS FEDERAL LAW THAT A CONTROLLED SUBSTANCE ANALOGUE SHALL, TO THE EXTENT INTENDED FOR HUMAN CONSUMPTION, BE TREATED AS A CONTROLLED SUBSTANCE IN SCHEDULE I OF THE NORTH CAROLINA CONTROLLED SUBSTANCES ACT.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Chapter 90 of the General Statutes is amended by adding the following new section to read:

**"§ 90-89.1. Treatment of controlled substance analogues.**

A controlled substance analogue shall, to the extent intended for human consumption, be treated for the purposes of any State law as a controlled substance in Schedule I."

**SECTION 2.** G.S. 90-87 is amended by adding the following new subdivision to read:

"(5a) "Controlled substance analogue" means a substance (i) the chemical structure of which is substantially similar to the chemical structure of a controlled substance in Schedule I or II; (ii) which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II; or (iii) with respect to a particular person, which such person represents or intends to have a stimulant,



depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II; and does not include (i) a controlled substance; (ii) any substance for which there is an approved new drug application; (iii) with respect to a particular person any substance, if an exemption is in effect for investigational use, for that person, under § 355 of Title 21 of the United States Code to the extent conduct with respect to such substance is pursuant to such exemption; or (iv) any substance to the extent not intended for human consumption before such an exemption takes effect with respect to that substance. The designation of gamma butyrolactone or any other chemical as a listed chemical pursuant to subdivision 802(34) or 802(35) of Title 21 of the United States Code does not preclude a finding pursuant to this subdivision that the chemical is a controlled substance analogue."

**SECTION 3.** This act becomes effective December 1, 2003, and applies to offenses committed on or after December 1, 2003.

In the General Assembly read three times and ratified this the 16<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 12:33 p.m. on the 26<sup>th</sup> day of June, 2003.

**S.B. 450**

**Session Law 2003-250**

AN ACT TO PROVIDE FOR THE RELEASE OR REFUND OF CERTAIN PROPERTY TAXES.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Notwithstanding the provisions of G.S. 105-380 and G.S. 105-381, for the 2002-2003 tax year a taxing unit shall release or refund the portion of property taxes paid on real property that is attributable to the erroneous inclusion of a septic or well system in the valuation of the property. For the purposes of this act, "erroneous inclusion of a septic or well system" means the inclusion in the valuation of real property of the value of a septic or well system that is not in fact a component part of the real property. The term does not include any other errors related to septic or well systems in the valuation of real property.

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

In the General Assembly read three times and ratified this the 16<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 12:34 p.m. on the 26<sup>th</sup> day of June, 2003.

**H.B. 601**

**Session Law 2003-251**

AN ACT TO ENCOURAGE EARLY ENTRY OF MOTIVATED STUDENTS INTO FOUR-YEAR COLLEGE PROGRAMS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 115C-12 is amended by adding a new subdivision to read:

"§ 115C-12. **Powers and duties of the Board generally.**

The general supervision and administration of the free public school system shall be vested in the State Board of Education. The State Board of Education shall establish policy for the system of free public schools, subject to laws enacted by the General Assembly. The powers and duties of the State Board of Education are defined as follows:

- ...
- (32) Duty to encourage early entry of motivated students into four-year college programs. – The State Board of Education, in cooperation with the Education Cabinet, shall work with local school administrative units, the constituent institutions of The University of North Carolina, local community colleges, and private colleges and universities to (i) encourage early entry of motivated students into four-year college programs and to (ii) ensure that there are opportunities at four-year institutions for academically talented high school students to get an early start on college coursework, either at nearby institutions or through distance learning.

The State Board of Education shall also adopt policies directing school guidance counselors to make ninth grade students aware of the potential to complete the high school courses required for college entry in a three-year period."

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

In the General Assembly read three times and ratified this the 16<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 12:38 p.m. on the 26<sup>th</sup> day of June, 2003.

**S.B. 912**

**Session Law 2003-252**

**AN ACT TO CREATE THE OFFENSE OF SEXUAL BATTERY.**

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 14-27.1 reads as rewritten:

"§ 14-27.1. **Definitions.**

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

- ...
- (5) 'Sexual contact' means (i) touching the sexual organ, anus, breast, groin, or buttocks of any person, or (ii) a person touching another person with their own sexual organ, anus, breast, groin, or buttocks.
- (6) 'Touching' as used in subdivision (5) of this section, means physical contact with another person, whether accomplished directly, through the clothing of the person committing the offense, or through the clothing of the victim."

**SECTION 2.** Article 7 of Chapter 14 of the General Statutes is amended by adding a new section to read:

**"§ 14-27.5A. Sexual battery.**

(a) A person is guilty of sexual battery if the person, for the purpose of sexual arousal, sexual gratification, or sexual abuse, engages in sexual contact with another person:

- (1) By force and against the will of the other person; or
- (2) Who is mentally disabled, mentally incapacitated, or physically helpless, and the person performing the act knows or should reasonably know that the other person is mentally disabled, mentally incapacitated, or physically helpless.

(b) Any person who commits the offense defined in this section is guilty of a Class A1 misdemeanor."

**SECTION 3.** This act becomes effective December 1, 2003, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 16<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 12:40 p.m. on the 26<sup>th</sup> day of June, 2003.

**S.B. 503****Session Law 2003-253**

**AN ACT TO UPDATE THE LAWS RELATING TO THE ATTENDANCE AGES AND ELIGIBILITY OF STUDENTS FOR NORTH CAROLINA SCHOOLS FOR THE DEAF.**

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 143B-216.41 reads as rewritten:

**"§ 143B-216.41. Pupils admitted; education.**

~~The Department of Health and Human Services shall according to such reasonable regulations as the Board of Directors may prescribe, on application, receive into the schools for the purposes of education all deaf children resident of the State who are from age five through age 20 years: Provided, that the Department of Health and Human Services may admit students who are not within the age limits set forth above when in its judgment, such admission will be in the best interests of the applicant and the facilities of the school permit such admission. Only those who are bona fide citizens or residents of North Carolina shall be eligible to and entitled to receive free tuition and maintenance. The Department may fix charges and the Board of Directors may prescribe rules whereby nonresident deaf children may be admitted, but in no event shall the admission of nonresidents in any way prevent the attendance of any eligible deaf child, resident of North Carolina. The Department shall provide for the instruction of all pupils in the branches of study now prescribed by law for the public schools of the State and in such other branches as may be of special benefit to the deaf.~~

~~The Department shall encourage the State to provide the classrooms with modern auditory training equipment, audiovisual media equipment, and any other special equipment to provide the best educational conditions for the deaf. The Department shall provide a teacher training program in the State. The Department shall provide for a comprehensive vocational and technical training program for boys and girls as may be useful to them in making themselves self-supporting.~~

(a) The Department of Health and Human Services may consider for admission all deaf and deaf/multidisabled children into the schools for the deaf who meet the following criteria and in accordance with federal and State law and rules adopted by the Office of Education Services:

- (1) The child has been referred by the child's local education agency and an admission is deemed appropriate by the child's Individualized Education Program (IEP) Team.
- (2) The child is a resident of this State, except as provided in subsection (b) of this section.
- (3) The child is at least five years of age but not older than 21 years of age.

(b) Nonresident deaf or deaf/multidisabled children may be admitted to the schools for the deaf in accordance with rules adopted by the Office of Education Services if the admission does not prevent the attendance of any deaf or deaf/multidisabled child who is a resident of the State. Only children who are residents of North Carolina are entitled to free tuition and room and board.

(c) The Department, through the Office of Education Services, shall provide unique instructional programs to meet the needs of all students admitted to the schools for the deaf. The Department shall encourage the State to provide classrooms with modern auditory training equipment, audiovisual media equipment, and any other special equipment to provide the best educational conditions for the deaf and deaf/multidisabled.

(d) The Department, through the Office of Education Services, shall do the following:

- (1) Maintain a collaborative relationship with institutions of higher education to provide teacher-training opportunities.
- (2) Provide for a comprehensive vocational and technical training program as directed in the transition component of the Individualized Education Programs of students."

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

In the General Assembly read three times and ratified this the 17<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 12:41 p.m. on the 26<sup>th</sup> day of June, 2003.

## S.B. 777

## Session Law 2003-254

AN ACT TO AMEND THE MOTOR VEHICLE DEALERS AND MANUFACTURERS LICENSING LAW WITH REGARD TO THE MANUFACTURE, SALE, AND DISTRIBUTION OF TRAILERS AND SEMITRAILERS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 20-286(11) reads as rewritten:

"(11) Motor vehicle dealer or dealer. –

a. A person who does any of the following:

1. For commission, money, or other thing of value, buys, sells, or exchanges, whether outright or on conditional sale, bailment lease, chattel mortgage, or otherwise, five

- or more motor vehicles within any 12 consecutive months, regardless of who owns the motor vehicles.
2. On behalf of another and for commission, money, or other thing of value, arranges, offers, attempts to solicit, or attempts to negotiate the sale, purchase, or exchange of an interest in five or more motor vehicles within any 12 consecutive months, regardless of who owns the motor vehicles.
  3. Engages, wholly or in part, in the business of selling new motor vehicles or new or used motor vehicles, or used motor vehicles only, whether or not the motor vehicles are owned by that person, and sells five or more motor vehicles within any 12 consecutive months.
  4. Offers to sell, displays, or permits the display for sale for any form of compensation five or more motor vehicles within any 12 consecutive months.
  5. Primarily engages in the leasing or renting of motor vehicles to others and sells or offers to sell those vehicles at retail.
- b. The term "motor vehicle dealer" or "dealer" does not include any of the following:
1. Receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under the judgment or order of any court.
  2. Public officers while performing their official duties.
  3. Persons disposing of motor vehicles acquired for their own use or the use of a family member, and actually so used, when the vehicles have been acquired and used in good faith and not for the purpose of avoiding the provisions of this Article.
  4. Persons who sell motor vehicles as an incident to their principal business but who are not engaged primarily in the selling of motor vehicles. This category includes financial institutions who sell repossessed motor vehicles and insurance companies who sell motor vehicles to which they have taken title as an incident of payments made under policies of insurance, and auctioneers who sell motor vehicles for the owners or the heirs of the owners of those vehicles as part of an auction of other personal or real property or for the purpose of settling an estate or closing a business or who sell motor vehicles on behalf of a governmental entity, and who do not maintain a used car lot or building with one or more employed motor vehicle sales representatives.
  5. Persons manufacturing, distributing or selling trailers and semitrailers weighing not more than ~~750 pounds and carrying not more than a 1,500 pound load.~~ 2,500 pounds unloaded weight.

6. A licensed real estate broker or salesman who sells a mobile home for the owner as an incident to the sale of land upon which the mobile home is located.
7. An employee of an organization arranging for the purchase or lease by the organization of vehicles for use in the organization's business.
8. Any publication, broadcast, or other communications media when engaged in the business of advertising, but not otherwise arranging for the sale of motor vehicles owned by others.
9. Any person dealing solely in the sale or lease of vehicles designed exclusively for off-road use.
10. Any real property owner who leases any interest in property for use by a dealer.
11. Any person acquiring any interest in a motor vehicle for a family member."

**SECTION 2.** G.S. 20-288(d) reads as rewritten:

"(d) To obtain a license as a wholesaler, an applicant who intends to sell or distribute self-propelled vehicles must have an established office in this State, and an applicant who intends to sell or distribute only trailers or semitrailers of ~~less~~ more than ~~2500~~ 2,500 pounds unloaded weight must have a place of business in this State where the records required under this Article are kept.

To obtain a license as a motor vehicle dealer, an applicant who intends to deal in self-propelled vehicles must have an established salesroom in this State, and an applicant who intends to deal in only trailers or semitrailers of ~~less~~ more than ~~2500~~ 2,500 pounds unloaded weight must have a place of business in this State where the records required under this Article are kept.

An applicant for a license as a manufacturer, a factory branch, a distributor, a distributor branch, a wholesaler, or a motor vehicle dealer must have a separate license for each established office, established salesroom, or other place of business in this State. An application for any of these licenses shall include a list of the applicant's places of business in this State."

**SECTION 3.** This act becomes effective July 1, 2003, and applies to licenses issued or renewed on or after that date.

In the General Assembly read three times and ratified this the 16<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 12:42 p.m. on the 26<sup>th</sup> day of June, 2003.

**S.B. 502**

**Session Law 2003-255**

**AN ACT TO AUTHORIZE A DEPUTY TO GAIN ACCESS TO THE CONTENTS OF A DECEDENT'S SAFE-DEPOSIT BOX.**

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 28A-15-13(a) reads as rewritten:

"(a) Definitions. – The following definitions apply to this section:

- (1) Institution. – Any entity or person having supervision or possession of a safe-deposit box to which a decedent had access.

- (1a) Deputy. – A person appointed in writing by a lessee or cotenant of a safe-deposit box as having right of access to the safe-deposit box without further authority or permission of the lessee or cotenant, in a manner and form designated by the institution.
- (2) Letter of authority. – Letters of administration, letters testamentary, an affidavit of collection of personal property, an order of summary administration, or a letter directed to the institution designating a person entitled to receive the contents of a safe-deposit box to which the decedent had access. The letter of authority must be signed by the clerk of superior court or by the clerk's representative.
- (3) Qualified person. – A person possessing a letter of authority or a person named as a deputy, lessee or cotenant of the safe-deposit box to which the decedent had access."

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

In the General Assembly read three times and ratified this the 17<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 12:43 p.m. on the 26<sup>th</sup> day of June, 2003.

**S.B. 232**

**Session Law 2003-256**

AN ACT TO CLARIFY THE AUTHORITY TO FUND THE ESTABLISHMENT OF BIKEWAYS AND TRAILS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 136-71.12 reads as rewritten:

"§ **136-71.12. Funds.**

The General Assembly hereby authorizes the Department to include needed funds for the program in its annual budgets for fiscal years after June 30, 1975, subject to the approval of the General Assembly.

The Department is authorized to spend any federal, State, local or private funds available to the Department and designated for the accomplishment of this Article. ~~Cities and towns~~ Cities, towns, and counties may use any funds available."

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

In the General Assembly read three times and ratified this the 18<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 12:46 p.m. on the 26<sup>th</sup> day of June, 2003.

**H.B. 1032**

**Session Law 2003-257**

AN ACT REQUIRING LOCAL BOARDS OF EDUCATION TO GIVE PREFERENCE IN PURCHASING CONTRACTS TO HIGH-CALCIUM FOODS AND BEVERAGES.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Part 2 of Article 17 of Chapter 115C is amended by adding a new section to read:

**"§ 115C-264.1. Preference to high-calcium foods and beverages in purchasing contracts.**

(a) In addition to any requirements established by the United States Department of Agriculture under the National School Lunch Program, the School Breakfast Program, or other federally supported food service programs, local boards of education shall give preference in purchasing contracts to high-calcium foods and beverages. For purposes of this section, 'high-calcium foods and beverages' means foods and beverages that contain a higher level of calcium and that are equal to or lower in price than other products of the same type or quality.

(b) Notwithstanding the provisions of subsection (a) of this section, if a local school board determines that a high-calcium food or beverage would interfere with the proper treatment and care of an individual receiving services from the public school food program, the local school board shall not be required to purchase a high-calcium food or beverage for that individual. A local school board that has entered into a contract with a supplier to purchase food or beverages before the effective date of this section is not required to purchase high-calcium foods or beverages for the duration of that contract if purchasing those products would change the terms of the contract."

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

In the General Assembly read three times and ratified this the 16<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 12:47 p.m. on the 26<sup>th</sup> day of June, 2003.

**S.B. 558**

**Session Law 2003-258**

AN ACT TO PROTECT CONSUMERS AND TRANSFERORS OF MOTOR VEHICLES UNAWARE OF PRIOR DAMAGE OR WHEN PRIOR DAMAGE WAS MINOR.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 20-71.3 reads as rewritten:

**"§ 20-71.3. Salvage and other vehicles – titles and registration cards to be branded.**

(a) Motor vehicle certificates of title and registration cards issued pursuant to G.S. 20-57 shall be branded in accordance with this section.

As used in this section, "branded" means that the title and registration card shall contain a designation that discloses if the vehicle is classified as any of the following:

- (1) Salvage Motor Vehicle.
- (2) Salvage Rebuilt Vehicle.
- (3) Reconstructed Vehicle.
- (4) Flood Vehicle.
- (5) Non-U.S.A. Vehicle.
- (6) Any other classification authorized by law.

(a1) Any motor vehicle that is declared a total loss by an insurance company licensed and approved to conduct business in North Carolina, in addition to the designations noted in subsection (a) of this section, shall:

- (1) Have the title and registration card marked "TOTAL LOSS CLAIM".
- (2) Have a tamperproof permanent marker inserted into the doorjamb of that vehicle by the Division, at the time of the final inspection of the reconstructed vehicle, that states "TOTAL LOSS CLAIM VEHICLE".



Should that vehicle be later reconstructed, repaired, or rebuilt, a permanent tamperproof marker shall be inserted in the doorjamb of the reconstructed, repaired, or rebuilt vehicle.

(b) Any motor vehicle up to and including six model years old damaged by collision or other occurrence, that is to be retitled in this State, shall be subject to preliminary and final inspections by the Enforcement Section of the Division. For purposes of this section, the term 'six model years' shall be calculated by counting the model year of the vehicle's manufacture as the first model year and the current calendar year as the final model year.

These inspections serve as antitheft measures and do not certify the safety or road-worthiness of a vehicle.

(c) The Division shall not retitle a vehicle described in subsection (b) of this section that has not undergone the preliminary and final inspections required by that subsection.

(d) Any motor vehicle up to and including six model years old that has been inspected pursuant to subsection (b) of this section may be retitled with an unbranded title based upon a title application by the rebuilder with a supporting affidavit disclosing all of the following:

- (1) The parts used or replaced.
- (2) The major components replaced.
- (3) The hours of labor and the hourly labor rate.
- (4) The total cost of repair.
- (5) The existence, if applicable, of the doorjamb "TOTAL LOSS CLAIM VEHICLE" marker.

The unbranded title shall be issued only if the cost of repairs, including parts and labor, does not exceed seventy-five percent (75%) of its fair market retail value.

(e) Any motor vehicle more than six model years old damaged by collision or other occurrence that is to be retitled by the State may be retitled, without inspection, with an unbranded title based upon a title application by the rebuilder with a supporting affidavit disclosing all of the following:

- (1) The parts used or replaced.
- (2) The major components replaced.
- (3) The hours of labor and the hourly labor rate.
- (4) The total cost of repair.
- (5) The existence, if applicable, of the doorjamb "TOTAL LOSS CLAIM VEHICLE" marker.
- (6) The cost to replace the air bag restraint system.

The unbranded title shall be issued only if the cost of repairs, including parts and ~~labor,~~ labor and excluding the cost to replace the air bag restraint system, does not exceed seventy-five percent (75%) of its fair market retail value.

(f) The Division shall maintain the affidavits required by this section and make them available for review and copying by persons researching the salvage and repair history of the vehicle.

(g) Any motor vehicle that has been branded in another state shall be branded with the nearest applicable brand specified in this section, except that no junk vehicle or vehicle that has been branded junk in another state shall be titled or registered.

(h) A branded title for a salvage motor vehicle damaged by collision or other occurrence shall be issued ~~if the cost of repairs, including parts and labor, exceeds seventy-five percent (75%) of its fair market retail value as follows:~~

- (1) For motor vehicles up to and including six model years old, a branded title shall be issued if the cost of repairs, including parts and labor, exceeds seventy-five percent (75%) of its fair market value at the time of the collision or other occurrence.
- (2) For motor vehicles more than six model years old, a branded title shall be issued if the cost of repairs, including parts and labor and excluding the cost to replace the air bag restraint system, exceeds seventy-five percent (75%) of its fair market value at the time of the collision or other occurrence.

(i) Once the Division has issued a branded title for a motor vehicle all subsequent titles for that motor vehicle shall continue to reflect the branding.

(j) The Division shall prepare necessary forms and doorjamb marker specifications and may adopt rules required to carry out the provisions of this Part."

**SECTION 2.** G.S. 20-71.4 reads as rewritten:

"§ 20-71.4. **Failure to disclose damage to a vehicle shall be a misdemeanor.**

(a) It shall be unlawful ~~and constitute a Class 2 misdemeanor~~ for any transferor ~~who knows or reasonably should know that~~ of a motor vehicle to do any of the following:

- (1) ~~A-Transfer a motor vehicle up to and including five model years old when the transferor has knowledge that the vehicle has been involved in a collision or other occurrence to the extent that the cost of repairing that vehicle-vehicle, excluding the cost to replace the air bag restraint system, exceeds twenty-five percent (25%) of its fair market retail value at the time of the damage; or collision or other occurrence, without disclosing that fact in writing to the transferee prior to the transfer of the vehicle.~~
- (2) ~~The-Transfer a motor vehicle when the transferor has knowledge that the vehicle is, or was, a flood vehicle, a reconstructed vehicle, or a salvage motor vehicle-vehicle, without disclosing to fail to disclose that fact in writing to the transferee prior to the transfer of the vehicle.~~

(a1) For purposes of this section, the term 'five model years' shall be calculated by counting the model year of the vehicle's manufacture as the first model year and the current calendar year as the final model year. Failure to disclose any of the ~~above~~ information required under subsection (a) of this section that is within the knowledge of the transferor will also result in civil liability under G.S. 20-348. The Commissioner may prepare forms to carry out the provisions of this section.

(b) It shall be unlawful for any person to remove the title or supporting documents to any motor vehicle from the State of North Carolina with the intent to conceal damage (or damage which has been repaired) occurring as a result of a collision or other occurrence.

(c) It shall be unlawful for any person to remove, tamper with, alter, or conceal the 'TOTAL LOSS CLAIM VEHICLE' tamperproof permanent marker that is affixed to the doorjamb of any total loss claim vehicle. It shall be unlawful for any person to reconstruct a total loss claim vehicle and not include or affix a 'TOTAL LOSS CLAIM VEHICLE' tamperproof permanent marker to the doorjamb of the rebuilt vehicle. Violation of this subsection shall constitute a Class I felony, punishable by a fine of not less than five thousand dollars (\$5,000) for each offense.

(d) ~~Violation of this statute-subsections (a) and (b) of this section shall constitute a Class 2 misdemeanor.~~"

**SECTION 3.** Article 3 of Chapter 20 of the General Statutes is amended by adding a new section to read:

**"§ 20-136.2. Air bag installation.**

It shall be unlawful for any person, firm, or corporation to knowingly install or reinstall any object in lieu of an air bag, other than an air bag that was designed in accordance with federal safety regulations for the make, model, and year of vehicle, as part of a vehicle inflation restraint system. Any person, firm, or corporation violating this section shall be guilty of a Class 1 misdemeanor."

**SECTION 4.** G.S. 20-305.1(e) reads as rewritten:

"(e) **Damage/Repair Disclosure.** – Notwithstanding the provisions of subdivision (d)(4) of this section and in supplementation thereof, a new motor vehicle dealer shall disclose in writing to a purchaser of the new motor vehicle prior to entering into a sales contract any damage and repair to the new motor vehicle if the damage exceeds five percent (5%) of the manufacturer's suggested retail price as calculated at the rate of the dealer's authorized warranty rate for labor and parts.

- (1) A new motor vehicle dealer is not required to disclose to a purchaser that any ~~glass, tires or bumper of a new motor vehicle was damaged at any time~~ damage of any nature occurred to a new motor vehicle at any time if the total cost of all repairs fails to exceed five percent (5%) of the manufacturer's suggested retail price as calculated at the time the repairs were made based upon the dealer's authorized warranty rate for labor and parts and if the damaged item has been replaced with original or comparable equipment.
- (2) If disclosure is not required under this section, a purchaser may not revoke or rescind a sales contract or have or file any cause of action or claim against the dealer or manufacturer for breach of contract, breach of warranty, fraud, concealment, unfair and deceptive acts or practices, or otherwise due solely to the fact that the new motor vehicle was damaged and repaired prior to completion of the sale.
- (3) For purposes of this section, "manufacturer's suggested retail price" means the retail price of the new motor vehicle suggested by the manufacturer including the retail delivered price suggested by the manufacturer for each accessory or item of optional equipment physically attached to the new motor vehicle at the time of delivery to the new motor vehicle dealer which is not included within the retail price suggested by the manufacturer for the new motor vehicle."

**SECTION 5.** This act becomes effective December 1, 2003.

In the General Assembly read three times and ratified this the 18<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 12:49 p.m. on the 26<sup>th</sup> day of June, 2003.

**S.B. 652**

**Session Law 2003-259**

AN ACT TO AUTHORIZE CERTAIN AIRPORT AUTHORITIES TO ENTER INTO INSTALLMENT CONTRACTS, TO EXTEND FROM TEN TO FIFTEEN YEARS THE MAXIMUM REPAYMENT PERIOD FOR DAM REPAIR ASSESSMENTS IN THE VILLAGE OF PINEHURST, AND TO ALLOW THE STANLY COUNTY

AIRPORT AUTHORITY TO ENTER INTO LONG-TERM LEASES WITH THE UNITED STATES.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 160A-20 reads as rewritten:

**"§ 160A-20. Security interests.**

(a) Units of local government, as defined in subsection (h), may purchase or finance the purchase of real or personal property by installment contracts that create in the property purchased a security interest to secure payment of the purchase price to the seller or to an individual or entity advancing moneys or supplying financing for the purchase transaction.

(b) Units of local government, as defined in subsection (h), may finance the construction or repair of fixtures or improvements on real property by contracts that create in the fixtures or improvements, or in all or some portion of the property on which the fixtures or improvements are located, or in both, a security interest to secure repayment of moneys advanced or made available for such construction or repair.

(c) Units of local government, as defined in subsection (h), may use escrow accounts in connection with the advance funding of transactions authorized by this section, whereby the proceeds of such advance funding are invested pending disbursement.

(d) No contract entered into under this section may contain a nonsubstitution clause that restricts the right of a unit of local government to:

- (1) Continue to provide a service or activity; or
- (2) Replace or provide a substitute for any fixture, improvement, project, or property financed or purchased pursuant to such contract.

(e) A contract entered into under this section is subject to approval by the Local Government Commission under Article 8 of Chapter 159 of the General Statutes if it:

- (1) Meets the standards set out in G.S. 159-148(a)(1), 159-148(a)(2), and 159-148(a)(3), or involves the construction or repair of fixtures or improvements on real property; and
- (2) Is not exempted from the provisions of that Article by one of the exemptions contained in G.S. 159-148(b).

(e1) A nonprofit corporation or association operating or leasing a public hospital may only enter into a contract pursuant to this section if the nonprofit corporation or association will have an ownership interest in the property being financed, including a leasehold interest, and the security interest granted in such property being financed shall only be to the extent of such property interest. In addition, any contract entered into by a nonprofit corporation or association operating or leasing a public hospital pursuant to this section is subject to the approval of the city, county, hospital district, or hospital authority which owns such hospital. Approval of the city, county, hospital district, or hospital authority may be withheld only under one or more of the following circumstances:

- (1) The contract would cause the city, county, hospital district, or hospital authority to breach or violate any covenant in an existing financing instrument entered into by such entity.
- (2) The contract would restrict the ability of the city, county, hospital district, or hospital authority to incur anticipated bank eligible indebtedness under federal tax laws.

- (3) The entering into of the contract would have a material adverse impact on the credit ratings of the city, county, hospital district, or hospital authority or otherwise materially interfere with an anticipated financing by such entity.

(f) No deficiency judgment may be rendered against any unit of local government in any action for breach of a contractual obligation authorized by this section, and the taxing power of a unit of local government is not and may not be pledged directly or indirectly to secure any moneys due under a contract authorized by this section.

(g) Before entering into a contract under this section involving real property, a unit of local government shall hold a public hearing on the contract. A notice of the public hearing shall be published once at least 10 days before the date fixed for the hearing.

(h) As used in this section, the term "unit of local government" means any of the following:

- (1) A county.
- (2) A city.
- (3) A water and sewer authority created under Article 1 of Chapter 162A of the General Statutes.
- (3a) A metropolitan sewerage district created under Article 5 of Chapter 162A of the General Statutes.
- (3b) A sanitary district created under Part 2 of Article 2 of Chapter 130A of the General Statutes.
- (4) An airport authority whose situs is entirely within a county that has (i) a population of over 120,000 according to the most recent federal decennial census and (ii) an area of less than 200 square miles.
- (5) An airport authority in a county in which there are two incorporated municipalities with a population of more than 65,000 according to the most recent federal decennial census.
- (5a) An airport board or commission authorized by agreement between two cities pursuant to G.S. 63-56, one of which is located partially but not wholly in the county in which the jointly owned airport is located, and where the board or commission provided water and wastewater services off the airport premises before January 1, 1995, except that the authority granted by this subdivision may be exercised by such a board or commission with respect to water and wastewater systems or improvements only.
- (5b) A local airport authority that was created pursuant to a local act of the General Assembly.
- (6) A local school administrative unit whose board of education is authorized to levy a school tax.
- (6a) Any other local school administrative unit, but only for the purpose of financing energy conservation measures acquired pursuant to Part 2 of Article 3B of Chapter 143 of the General Statutes.
- (6b) A community college, but only for the purpose of financing energy conservation measures acquired pursuant to Part 2 of Article 3B of Chapter 143 of the General Statutes.
- (7) An area mental health, developmental disabilities, and substance abuse authority, acting in accordance with G.S. 122C-147.

- (8) A consolidated city-county, as defined by G.S. 160B-2(1).
- (9) Repealed by Session Laws 2001-414, s. 52, effective September 14, 2001.
- (10) A regional natural gas district, as defined by Article 28 of this Chapter.
- (11) A regional public transportation authority or a regional transportation authority created pursuant to Article 26 or Article 27 of this Chapter.
- (12) A nonprofit corporation or association operating or leasing a public hospital as defined in G.S. 159-39."

**SECTION 2.(a)** G.S. 160A-232 reads as rewritten:

**"§ 160A-232. Payment of assessments in cash or by installments.**

The owners of assessed property shall have the option, within 30 days after the publication of the notice that the assessment roll has been confirmed, of paying the assessment either in cash or in not more than ~~10~~15 annual installments, as may have been determined by the council in the resolution directing the project giving rise to the assessment to be undertaken. With respect to payment by installment, the council may provide

- (1) That the first installment with interest shall become due and payable on the date when property taxes are due and payable, and one subsequent installment and interest shall be due and payable on the same date in each successive year until the assessment is paid in full, or
- (2) That the first installment with interest shall become due and payable 60 days after the date that the assessment roll is confirmed, and one subsequent installment and interest shall be due and payable on the same day of the month in each successive year until the assessment is paid in full."

**SECTION 2.(b)** This section applies only to assessments for repair and rehabilitation of a dam in the Village of Pinehurst.

**SECTION 3.** Section 4(12) of Chapter 419 of the 1971 Session Laws reads as rewritten:

"Sec. 4. The Airport Authority shall constitute a body, both corporate and politic, and shall have the following powers and authority:

- ...
- (12) To lease for a term not to exceed 25 years, and for purposes not inconsistent with the grants and agreements under which the airport is held, real or personal property under the supervision of or administered by the Airport ~~Authority~~Authority, except the Airport Authority may execute leases with the United States of America, its agencies, departments, boards, and military (including reserves and national guard) for terms not to exceed 50 years.

...."

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

In the General Assembly read three times and ratified this the 18<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 12:49 p.m. on the 26<sup>th</sup> day of June, 2003.

## H.B. 745

## Session Law 2003-260

## AN ACT TO REVISE THE MEMBERSHIP OF THE NORTH CAROLINA INDIAN CULTURAL CENTER BOARD.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Subsection (b) of Section 2 of S.L. 1997-41, as amended by S.L. 1998-19 and S.L. 2001-318, reads as rewritten:

"(b) The Board of the North Carolina Indian Cultural Center, Inc., shall consist of ~~17-19~~ members, appointed as follows:

- (1) One member representing each of the following Indian groups recognized by the State of North Carolina: the Coharie of Sampson and Harnett Counties; the Eastern Band of Cherokees; the Haliwa of Halifax, Warren, and adjoining counties;
- (2) One member each from the following Indian organizations: the Cumberland County Association for Indian People, the Guilford Native Americans, the Metrolina Native Americans, and the Triangle Native American Society;
- (3) ~~One member~~ Two members representing the education community of the ~~State~~; State and residing in Bladen, Columbus, Cumberland, Hoke, Robeson, or Scotland County;
- (4) ~~Two~~ Three members representing the business community of the ~~State~~; State and residing in Bladen, Columbus, Cumberland, Hoke, Robeson, or Scotland County;
- (5) Two members representing the government of the State of North Carolina; and
- (6) One member representing the federal government.

Each member designated in subdivisions (1) and (2) above shall be appointed by the North Carolina Commission of Indian Affairs from two prioritized nominations submitted by the group or organization to be represented by that member. Each member designated in subdivisions (3) through (6) above shall be appointed by the North Carolina Commission of Indian Affairs from two prioritized nominations submitted by the Board of the North Carolina Indian Cultural Center, Inc. If the nominating group or organization submits only one nomination or fails to submit nominations for any reason within 30 days after the date designated for submission by the Commission, the Commission shall appoint a member of its choice to fill the requirement. The Board of the North Carolina Indian Cultural Center, Inc., shall appoint a chair from the Board membership.

Members shall serve two-year terms, except that the initial terms of:

- (1) The members representing the Coharie of Sampson and Harnett Counties, the Eastern Band of Cherokees, the Indians of Person County; and the Meherrin of Hertford County; the member representing the Metrolina Native Americans; the member representing the education community of the State; one member representing the government of the State of North Carolina; and one member representing the business community shall be for one year; and

- (2) The members representing the Haliwa of Halifax, Warren, and adjoining counties, the Lumbees of Robeson, Hoke, and Scotland Counties, and the Waccamaw-Siouan from Columbus and Bladen Counties; the members representing the Cumberland County Association for Indian People and the Guilford Native Americans; one member representing the business community of the State; one member representing the government of the State of North Carolina; and one member representing the federal government shall be for two years."

**SECTION 2.** If the members representing the education community and the business community do not meet the residency requirement provided for in Section 1 of this act on the effective date of this act, new members shall be appointed to those seats to serve the remainder of those members' terms. The additional members of the educational and business communities, as provided for in this act, shall be appointed so that their terms run concurrently with the terms of the current educational and business community members.

**SECTION 3.** This act becomes effective July 1, 2003.

In the General Assembly read three times and ratified this the 18<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 12:50 p.m. on the 26<sup>th</sup> day of June, 2003.

## H.B. 656

## Session Law 2003-261

AN ACT TO AMEND THE TRUST ADMINISTRATION ACT AND TO MAKE RELATED CHANGES TO THE LAW GOVERNING ACCOUNTINGS IN TESTAMENTARY TRUSTS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 36A-23.1(a) reads as rewritten:

"(a) The clerks of superior court of this State have original jurisdiction over all proceedings initiated by interested persons concerning the internal affairs of trusts except proceedings ~~to modify or terminate trusts~~. governed by Article 11A of this Chapter. Except as provided in subdivision (3) of this subsection, the clerk's jurisdiction is exclusive. Proceedings that may be maintained under this subsection are those concerning the administration and distribution of trusts, the declaration of rights, and the determination of other matters involving trustees and trust beneficiaries, to the extent that those matters are not otherwise provided for in the governing instrument. These include proceedings:

- (1) To appoint or remove a trustee;
- (1a) To permit a trustee to resign or renounce; however, unless the trustee is required to account to the clerk, when the governing instrument names or provides a procedure to name a successor trustee, and the successor trustee is willing to serve, no trustee shall be required to initiate a proceeding to resign or renounce as trustee;
- (2) To review trustees' fees pursuant to ~~G.S. 32-50~~ Article 5 of Chapter 32 of the General Statutes and review and settle interim or final accounts; and



- (3) To ascertain beneficiaries, to determine any question arising in the administration or distribution of any trust, including questions of construction of trust instruments, and to determine the existence or nonexistence of trusts created other than by will and the existence or nonexistence of any immunity, power, privilege, duty, or right. The clerk, on the clerk's own motion, may determine that a proceeding to determine an issue listed in this subdivision shall be originally heard by a superior court judge."

**SECTION 2.** G.S. 36A-24.1(b) reads as rewritten:

"(b) If the trustee is not required to account to the clerk, then unless the terms of the governing instrument provide otherwise, venue for proceedings under G.S. 36A-23.1 involving trusts ~~is in~~ is:

- (1) In the case of an inter vivos trust, in any county of this State in which the trust has its principal place of administration or where any beneficiary resides; or
- (2) In the case of a testamentary trust, in any county of this State in which the trust has its principal place of administration, where any beneficiary resides, or in which the testator's estate was administered."

**SECTION 3.** G.S. 36A-26.1 reads as rewritten:

**"§ 36A-26.1. Trust proceedings; necessary parties.**

Proceedings under G.S. 36A-23.1 are initiated by filing a petition ~~or complaint~~ in the office of the clerk of superior court. Upon the filing of the petition, the clerk shall docket the cause as an estate matter. All ~~known beneficiaries, trustees, or cotrustees~~ trustees and interested persons not joined as petitioners shall be joined as respondents. The clerk shall issue the summons for the respondents. The clerk may order ~~notification of that additional persons be joined as respondents and shall issue the summons for the additional persons. An order is valid as to all persons who are given notice of the proceeding even if all interested persons are not notified. The beneficiaries, creditors, or any other persons interested in the trust estate have the right to~~ The summons shall notify the respondents to appear and answer the petition and to offer evidence against granting the petition. The clerk shall then proceed to hear within 10 days after its service upon the respondents. The summons shall comply with the requirements set forth in G.S. 1-394 for a special proceeding summons except that the clerk shall indicate on the summons by appropriate words that the summons is issued in an estate matter and not in a special proceeding or in a civil action. The clerk shall set the matter for hearing after the period for respondents to answer the petition has expired and shall direct the petitioners to provide notice of the hearing to respondents. At the hearing, petitioners and respondents may offer evidence for and against granting the petition, and the clerk shall decide and determine the matter as provided for in G.S. 1-301.3. in G.S. 1-301.3. An order entered by the clerk is valid as to all persons upon whom a summons is served."

**SECTION 4.** G.S. 36A-29 reads as rewritten:

**"§ 36A-29. ~~Final accounting before resignation.~~ Accounting to the clerk.**

(a) No trustee, including a trustee appointed by the clerk, shall be required to account to the clerk of superior court unless the governing instrument directs that the trustee shall be required to account to the clerk or unless the trustee is otherwise required by law to account to the clerk.

(b) ~~If the trustee is required to account to the clerk of superior court, then unless the terms of the governing instrument provide otherwise, no court, the trustee shall not be permitted to resign as trustee until a final account of the trust estate is filed with the clerk, clerk and until the court shall be satisfied that the account is true and correct. correct, unless the terms of the governing instrument provide otherwise."~~

**SECTION 5.** G.S. 36A-31 reads as rewritten:

**"§ 36A-31. When bond required.**

(a) ~~A~~ For any testamentary trust created under a will of a decedent executed on or after January 1, 2004, and any inter vivos trust created on or after January 1, 2004, a trustee need not shall provide bond to secure performance of the trustee's duties unless required by the if the terms of the governing instrument, reasonably requested by a beneficiary, or found by the clerk to be necessary instrument require the trustee to provide bond. For any testamentary trust created under a will of a decedent executed before January 1, 2004, and for any inter vivos trust created before January 1, 2004, a trustee shall provide bond to secure performance of the trustee's duties unless the terms of the governing instrument provide otherwise. In addition, regardless of when a trust was created, a trustee shall provide bond to secure performance of the trustee's duties if:

- (1) A beneficiary requests the trustee to provide bond and the clerk finds the request to be reasonable; or
- (2) The clerk finds that it is necessary for the trustee to provide bond in order to protect the interests of beneficiaries who are not able to protect themselves and whose interests otherwise are not adequately represented.

(b) ~~However, Notwithstanding subsection (a) of this section, in no event shall bond be required of a trustee, including a trustee appointed by the clerk, if the governing instrument directs otherwise. On petition of the trustee or other interested person, the clerk may excuse a requirement of bond, reduce the amount of the bond, release the surety, or permit the substitution of another bond with the same or different sureties. If the governing instrument is silent as to the requirement of a bond and the clerk finds that no bond is necessary, or if the clerk excuses or reduces the bond requirement, the clerk's decision must be approved by a superior court judge unless all beneficiaries have been notified of the decision. If bond is required, it shall be in a sum double the value of the personal property to come into the trustee's hands when bond is executed by a personal surety, and in an amount not less than one and one-fourth times the value of all personal property of the trust estate when the bond is secured by a suretyship bond executed by a corporate surety company authorized by the Commissioner of Insurance to do business in this State, provided that the clerk of superior court, when the value of the personal property exceeds one hundred thousand dollars (\$100,000), may accept bond in an amount equal to the value of the personal property plus ten percent (10%) thereof, conditioned upon the faithful performance of the trustee's duties and for the payment to the persons entitled to receive all moneys, assets, or other things of value which may come into the trustee's hands. All bonds executed under the provisions of this Article shall be filed with the clerk."~~

**SECTION 6.** G.S. 36A-32 reads as rewritten:

**"§ 36A-32. Rights and duties devolve on successor.**

A successor trustee-trustee, including a successor trustee appointed by the clerk, shall succeed to all the rights, powers, and privileges, and shall be subject to all the duties, liabilities, and responsibilities that were imposed upon the original trustee unless

a contrary intent appears from the governing ~~instrument~~ instrument or unless the order appointing the successor trustee provides otherwise."

**SECTION 7.** G.S. 36A-107 reads as rewritten:

"§ 36A-107. **Trustees in wills to qualify and file inventories and accounts.**

(a) ~~Trustees appointed in any will admitted to probate in this State, into whose hands assets come under the provisions of the will,~~ For any testamentary trust created under a will of a decedent executed before January 1, 2004, the trustee shall first qualify under the laws applicable to executors, and shall file in the office of the clerk of the county where the will is probated inventories of the assets which that come into his the trustee's hands and annual and final accounts thereof, such of the trust that are the same as required of executors and administrators. The power of the clerk to enforce the filing and his the clerk's duties in respect to auditing and approving to audit and approve the trustee's inventories and accounts shall be the same as in such cases. the clerk's powers and duties with respect to the inventories and accounts of executors and administrators. This section-subsection shall not apply to the extent that any will makes a different provision.

(b) For any testamentary trust created under a will of a decedent executed on or after January 1, 2004, the provisions of which direct the trustee to account to the clerk, the trustee shall first qualify under the laws applicable to executors and shall file in the office of the clerk of the county where the will is probated inventories of the assets that come into the trustee's hands and annual and final accounts of the trust that are the same as are required of executors and administrators. The power of the clerk to enforce the filing and the clerk's duties to audit and approve the trustee's inventories and accounts shall be the same as the clerk's powers and duties with respect to the inventories and accounts of executors and administrators. No trustee, including a trustee appointed by the clerk, shall be required to account to the clerk unless the subject will directs that the trustee shall be required to account to the clerk or unless otherwise required by law."

**SECTION 8.** This act becomes effective January 1, 2004, and applies to all trusts created before or after that date.

In the General Assembly read three times and ratified this the 18<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 12:51 p.m. on the 26<sup>th</sup> day of June, 2003.

**S.B. 966**

**Session Law 2003-262**

AN ACT TO REQUIRE INSURERS TO IMPLEMENT SAFEGUARDS FOR THE PROTECTION OF CUSTOMER INFORMATION, PURSUANT TO THE PROVISIONS OF THE GRAMM-LEACH-BLILEY ACT.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** The heading for Article 39 of Chapter 58 of the General Statutes reads as rewritten:

"Article 39.

~~Insurance Information and Privacy Protection Act.~~

Consumer and Customer Information Privacy."

**SECTION 2.** Article 39 of Chapter 58 of the General Statutes is amended by:

- (1) Designating G.S. 58-39-1 through G.S. 58-39-76 as:  
"Part 1. Insurance Information and Privacy Protection."
- (2) Designating G.S. 58-39-80 through G.S. 58-39-125 as:  
"Part 2. Enforcement, Sanctions, Remedies, and Rights." and
- (3) Recodifying G.S. 58-39-70 as G.S. 58-39-125.

**SECTION 3.** G.S. 58-39-1 reads as rewritten:

**"§ 58-39-1. Short ~~title~~.titles.**

This Article may be cited as the Consumer and Customer Information Privacy Act. Part 1 of this Article may be cited as the Insurance Information and Privacy Protection Act. Part 3 of this Article may be cited as the Customer Information Safeguards Act."

**SECTION 4.** Article 39 of Chapter 58 of the General Statutes is amended by adding a new Part to read:

"Part 3. Customer Information Safeguards.

**"§ 58-39-130. Purpose.**

The purpose of this Part is to establish standards for developing and implementing administrative, technical, and physical safeguards to protect the security, confidentiality, and integrity of customer information, as required by sections 501, 505(b), and 507 of the federal Gramm-Leach-Bliley Act (Public Law 106-102), codified as 15 U.S.C. §§ 6801, 6805(b), and 6807. The purpose of this Part is also to provide privacy and security protection consistent with federal regulations governing the privacy and security of medical records when this Part is consistent with those federal regulations. In those instances in which this Part and the federal regulations are inconsistent and this Part provides privacy and security protection beyond that offered by the federal regulations, the purpose of this Part is to provide that additional privacy and security protection.

**"§ 58-39-135. Scope.**

The safeguards established under this Part apply to all customer information as defined in G.S. 58-39-140.

**"§ 58-39-140. Definitions.**

As used in this Part, in addition to the definitions in G.S. 58-39-15:

- (1) 'Customer' means an applicant with or policyholder of a licensee.
- (2) 'Customer information' means nonpublic personal information about a customer, whether in paper, electronic, or other form that is maintained by or on behalf of the licensee.
- (3) 'Customer information systems' means the electronic or physical methods used to access, collect, store, use, transmit, protect, or dispose of customer information.
- (4) 'Licensee' means any producer, as defined in G.S. 58-33-10(7), insurer, MEWA, HMO, or service corporation governed by this Chapter. 'Licensee' does not mean:
  - a. An insurance-support organization.
  - b. A licensee who is a natural person operating within the scope of the licensee's employment by or affiliation with an insurer or producer.
  - c. A surplus lines insurer or licensee under Article 21 of this Chapter.
- (5) 'Service provider' means a person that maintains, processes, or otherwise is permitted access to customer information through its provision of services directly to the licensee and includes an insurance support organization.

**"§ 58-39-145. Information security program.**

Each licensee shall implement a comprehensive written information security program that includes administrative, technical, and physical safeguards for the protection of customer information. The administrative, technical, and physical safeguards included in the information security program shall be appropriate to the size and complexity of the licensee and the nature and scope of its activities.

**"§ 58-39-150. Objectives of information security program.**

A licensee's information security program shall be designed to:

- (1) Ensure the security and confidentiality of customer information;
- (2) Protect against any anticipated threats or hazards to the security or integrity of the information; and
- (3) Protect against unauthorized access to or use of the information that could result in substantial harm or inconvenience to any customer.

**"§ 58-39-155. Rules.**

The Commissioner may adopt rules that the Commissioner deems necessary to carry out the purposes of this Part, including rules that govern licensee oversight of service providers with which it contracts or has a relationship.

**"§ 58-39-160. Violation.**

A violation of G.S. 58-39-145 or G.S. 58-39-150 subjects the violator to Part 2 of this Article.

**"§ 58-39-165. Effective date.**

Each licensee shall establish an information security program, including appropriate policies and systems under this Part by April 1, 2005."

**SECTION 5.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 18<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 12:52 p.m. on the 26<sup>th</sup> day of June, 2003.

**H.B. 1221****Session Law 2003-263**

AN ACT REQUIRING THE RETURN OF OVERPAYMENTS OF STATE FUNDS BY PERSONS IN STATE-SUPPORTED POSITIONS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Chapter 143 of the General Statutes is amended by adding a new Article to read:

"Article 3H.

"Overpayments of State Funds.

**"§ 143-64.80. Overpayments of State funds to persons in State-supported positions; recoupment required.**

(a) An overpayment of State funds to any person in a State-funded position, whether in the form of salary or otherwise, shall be recouped by the entity that made the overpayment and, to the extent allowed by law, the amount of the overpayment may be offset against the net wages of the person receiving the overpayment.

(b) No State department, agency, or institution, or other State-funded entity may forgive repayment of an overpayment of State funds, but shall have a duty to pursue the repayment of State funds by all lawful means available, including the filing of a civil action in the General Court of Justice."

**SECTION 2.** This act is effective when it becomes law and applies to all overpayments of State funds made on or after that date.

In the General Assembly read three times and ratified this the 18<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 12:52 p.m. on the 26<sup>th</sup> day of June, 2003.

**S.B. 511****Session Law 2003-264**

AN ACT TO REQUIRE LOCAL GOVERNMENTS TO PUBLISH THE REVENUE-NEUTRAL TAX RATE IN YEARS WHEN THERE IS A GENERAL REVALUATION OF REAL PROPERTY.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 159-11 is amended by adding a new subsection to read:

"(e) In each year in which a general reappraisal of real property has been conducted, the budget officer shall include in the budget, for comparison purposes, a statement of the revenue-neutral property tax rate for the budget. The revenue-neutral property tax rate is the rate that is estimated to produce revenue for the next fiscal year equal to the revenue that would have been produced for the next fiscal year by the current tax rate if no reappraisal had occurred. To calculate the revenue-neutral tax rate, the budget officer shall first determine a rate that would produce revenues equal to those produced for the current fiscal year and then increase the rate by a growth factor equal to the average annual percentage increase in the tax base due to improvements since the last general reappraisal. This growth factor represents the expected percentage increase in the value of the tax base due to improvements during the next fiscal year. The budget officer shall further adjust the rate to account for any annexation, deannexation, merger, or similar event."

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

In the General Assembly read three times and ratified this the 19<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 12:53 p.m. on the 26<sup>th</sup> day of June, 2003.

**H.B. 692****Session Law 2003-265**

AN ACT TO PROVIDE THAT LICENSED AUCTIONEERS CONDUCTING AUCTIONS FOR MOTOR VEHICLE DEALERS DO NOT NEED MOTOR VEHICLE DEALER LICENSES.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 20-286(11) reads as rewritten:

**"§ 20-286. Definitions.**

The following definitions apply in this Article:

...

(11) Motor vehicle dealer or dealer. –

a. A person who does any of the following:

1. For commission, money, or other thing of value, buys, sells, or exchanges, whether outright or on conditional

- sale, bailment lease, chattel mortgage, or otherwise, five or more motor vehicles within any 12 consecutive months, regardless of who owns the motor vehicles.
2. On behalf of another and for commission, money, or other thing of value, arranges, offers, attempts to solicit, or attempts to negotiate the sale, purchase, or exchange of an interest in five or more motor vehicles within any 12 consecutive months, regardless of who owns the motor vehicles.
  3. Engages, wholly or in part, in the business of selling new motor vehicles or new or used motor vehicles, or used motor vehicles only, whether or not the motor vehicles are owned by that person, and sells five or more motor vehicles within any 12 consecutive months.
  4. Offers to sell, displays, or permits the display for sale for any form of compensation five or more motor vehicles within any 12 consecutive months.
  5. Primarily engages in the leasing or renting of motor vehicles to others and sells or offers to sell those vehicles at retail.
- b. The term "motor vehicle dealer" or "dealer" does not include any of the following:
1. Receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under the judgment or order of any court.
  2. Public officers while performing their official duties.
  3. Persons disposing of motor vehicles acquired for their own use or the use of a family member, and actually so used, when the vehicles have been acquired and used in good faith and not for the purpose of avoiding the provisions of this Article.
  4. Persons who sell motor vehicles as an incident to their principal business but who are not engaged primarily in the selling of motor vehicles. This category includes financial institutions who sell repossessed motor vehicles and insurance companies who sell motor vehicles to which they have taken title as an incident of payments made under policies of insurance, and auctioneers who sell motor vehicles for the owners or the heirs of the owners of those vehicles as part of an auction of other personal or real property or for the purpose of settling an estate or closing a business or who sell motor vehicles on behalf of a governmental entity, and who do not maintain a used car lot or building with one or more employed motor vehicle sales representatives.
  5. Persons manufacturing, distributing or selling trailers and semitrailers weighing not more than 750 pounds and carrying not more than a 1,500 pound load.

6. A licensed real estate broker or salesman who sells a mobile home for the owner as an incident to the sale of land upon which the mobile home is located.
7. An employee of an organization arranging for the purchase or lease by the organization of vehicles for use in the organization's business.
8. Any publication, broadcast, or other communications media when engaged in the business of advertising, but not otherwise arranging for the sale of motor vehicles owned by others.
9. Any person dealing solely in the sale or lease of vehicles designed exclusively for off-road use.
10. Any real property owner who leases any interest in property for use by a dealer.
11. Any person acquiring any interest in a motor vehicle for a family member.
12. Any auctioneer licensed pursuant to Chapter 85B of the General Statutes employed to be an auctioneer of motor vehicles for a licensed motor vehicle dealer, while conducting an auction for that dealer."

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

In the General Assembly read three times and ratified this the 19<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 12:53 p.m. on the 26<sup>th</sup> day of June, 2003.

**S.B. 593**

**Session Law 2003-266**

**AN ACT TO EXTEND THE MORATORIA ON CONSTRUCTION OR EXPANSION OF SWINE FARMS.**

Whereas, the 1997 General Assembly established moratoria on the construction or expansion of certain swine farms and on lagoons and animal waste management systems for certain swine farms; and

Whereas, one of the original purposes of these moratoria was to allow completion of certain studies related to swine farms and animal waste management systems; and

Whereas, the 1998 General Assembly extended these moratoria and established exceptions for animal waste management systems that meet certain performance standards; and

Whereas, the 1999 General Assembly and the 2001 General Assembly further extended the moratoria so that moratoria have remained in effect continuously since 1 March 1997; and

Whereas, on 25 July 2000, the Attorney General of North Carolina entered into an agreement with Smithfield Foods, Incorporated, and certain other companies; and

Whereas, on 29 September 2000, the Attorney General of North Carolina entered into an agreement with Premium Standard Farms, Incorporated, and certain other companies; and



Whereas, on 13 March 2002, the Attorney General of North Carolina entered into an agreement with Frontline Farmers, Incorporated; and

Whereas, the companies that are parties to these agreements constitute a significant portion of the swine production capacity of the State; and

Whereas, these agreements commit the companies that are parties to these agreements to work cooperatively to develop and implement animal waste management technologies that meet the performance standards established by the General Assembly; and

Whereas, the companies that are parties to these agreements have agreed to provide substantial resources to assist the State in the development and implementation of animal waste management technologies that meet the performance standards established by the General Assembly and that are economically feasible; and

Whereas, the Animal and Poultry Waste Management Center at North Carolina State University is currently evaluating a number of animal waste management technologies in order to identify one or more technologies that meet the performance standards established by the General Assembly and that are economically feasible, as provided in the Smithfield and related agreements; and

Whereas, on 28 January 2003, the Environmental Review Commission received a report from the Animal and Poultry Waste Management Center on progress in the evaluation of animal waste management technologies; and

Whereas, based on this report, it appears that additional time will be needed to complete the evaluation of all technologies currently being evaluated; and

Whereas, it also appears that the General Assembly will need some time to consider the results of this evaluation process once it has been completed and to enact whatever legislation it determines to be appropriate; and

Whereas, it further appears that some time may be required for the implementation of any legislation that may be enacted by the General Assembly; Now, therefore,

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Subsection (a1) of Section 1.1 of S.L. 1997-458, as amended by Section 2 of S.L. 1998-188, Section 2.1 of S.L. 1999-329, and Section 1 of S.L. 2001-254, reads as rewritten:

"(a1) There is hereby established a moratorium on the construction or expansion of swine farms and on lagoons and animal waste management systems for swine farms. The purposes of this moratorium are ~~to allow counties time to adopt zoning ordinances under G.S. 153A-340, as amended by Section 2.1 of this act; to allow time for the completion of the studies authorized by the 1995 General Assembly (1996 Second Extra Session); and to allow the 1999~~ to allow time for the completion of ongoing evaluations of animal waste management technologies and related research and studies; to allow the General Assembly to receive and act on the findings and recommendations of those studies, evaluations, research, and studies; and to allow for the implementation of any legislation that may be enacted. Except as provided in subsection (b) of this section, the Environmental Management Commission shall not issue a permit for an animal waste management system for a new swine farm or the expansion of an existing swine farm for a period beginning on 1 March 1997 and ending on 1 September ~~2003-2007~~. The construction or expansion of a swine farm or animal waste management system for a swine farm is prohibited during the period of the moratorium regardless of the date on which a site evaluation for the swine farm is completed and regardless of whether the

animal waste management system is permitted under G.S. 143-215.1 or Part 1A of Article 21 of Chapter 143 of the General Statutes or deemed permitted under 15A North Carolina Administrative Code 2H.0217."

**SECTION 2.** Section 1.2 of S.L. 1997-458, as amended by Section 3 of S.L. 1998-188, Section 2.2 of S.L. 1999-329, and Section 2 of S.L. 2001-254, reads as rewritten:

"Section 1.2. (a) As used in this section, 'swine farm' and 'lagoon' have the same meaning as in G.S. 106-802. As used in this section, 'animal waste management system' has the same meaning as in G.S. 143-215.10B. There is hereby established a moratorium for any new or expanding swine farm or lagoon for which a permit is required under Parts 1 or 1A of Article 21 of Chapter 143 of the General Statutes in any county in the State: (i) that has a population of less than 75,000 according to the most recent decennial federal census; (ii) in which there is more than one hundred fifty million dollars (\$150,000,000) of expenditures for travel and tourism based on the most recent figures of the Department of Commerce; and (iii) that is not in the coastal area as defined by G.S. 113A-103. Effective 1 January 1997, until 1 September ~~2003~~,2007, the Environmental Management Commission shall not issue a permit for an animal waste management system, as defined in G.S. 143-215.10B, or for a new or expanded swine farm or lagoon, as defined in G.S. 106-802. The exemptions set out in subsection (b) of Section 1.1 of this act do not apply to the moratorium established under this section.

(b) In order to protect travel and tourism, effective 1 September ~~2003~~,2007, no animal waste management system shall be permitted except under an individual permit issued under Part 1 of Article 21 of Chapter 143 of the General Statutes in any county in the State: (i) that has a population of less than 75,000 according to the most recent decennial federal census; (ii) in which there is more than one hundred fifty million dollars (\$150,000,000) of expenditures for travel and tourism based on the most recent figures of the Department of Commerce; and (iii) that is not in the coastal area as defined by G.S. 113A-103."

**SECTION 3.** If any section or provision of this act is declared unconstitutional or invalid by the courts, the unconstitutional or invalid section or provision does not affect the validity of this act as a whole or any part of this act other than the part declared to be unconstitutional or invalid.

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

In the General Assembly read three times and ratified this the 19<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 12:55 p.m. on the 26<sup>th</sup> day of June, 2003.

## H.B. 824

## Session Law 2003-267

AN ACT TO AUTHORIZE THE DEPARTMENT OF TRANSPORTATION TO PERMIT ENCROACHMENT ON ITS RIGHTS-OF-WAY FOR THE CONSTRUCTION OF PRIVATE BRIDGES.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 136-18 is amended by adding a new subdivision to read:

"(37) To permit private use of and encroachment upon the right-of-way of a State highway or road for the purpose of construction and maintenance

of a privately owned bridge for pedestrians or motor vehicles, if the bridge shall not unreasonably interfere with or obstruct the public use of the right-of-way. Any agreement for an encroachment authorized by this subdivision shall be approved by the Board of Transportation, upon a finding that the encroachment is necessary and appropriate, in the sole discretion of the Board. Locations, plans, and specifications for any pedestrian or vehicular bridge authorized by the Board for construction pursuant to this subdivision shall be approved by the Department of Transportation. For any bridge subject to this subdivision, the Department shall retain the right to reject any plans, specifications, or materials used or proposed to be used, inspect and approve all materials to be used, inspect the construction, maintenance, or repair, and require the replacement, reconstruction, repair, or demolition of any partially or wholly completed bridge that, in the sole discretion of the Department, is unsafe or substandard in design or construction. An encroachment agreement authorized by this subdivision may include a requirement to purchase and maintain liability insurance in an amount determined by the Department of Transportation. The Department shall ensure that any bridge constructed pursuant to this subdivision is regularly inspected for safety. The owner shall have the bridge inspected every two years by a qualified private engineering firm based on National Bridge Inspection Standards and shall provide the Department copies of the Bridge Inspection Reports where they shall be kept on file. Any bridge authorized and constructed pursuant to this subdivision shall be subject to all other rules and conditions of the Department of Transportation for encroachments."

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

In the General Assembly read three times and ratified this the 18<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 12:56 p.m. on the 26<sup>th</sup> day of June, 2003.

**S.B. 76**

**Session Law 2003-268**

AN ACT TO INCORPORATE THE VILLAGE OF MISENHEIMER.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** A Charter for the Village of Misenheimer is enacted to read:

"CHARTER OF THE VILLAGE OF MISENHEIMER.

"ARTICLE I. INCORPORATION AND CORPORATE POWERS.

"Section 1.1. **Incorporation and Corporate Powers.** The inhabitants of the Village of Misenheimer are a body corporate and politic under the name 'Village of Misenheimer'. The Village of Misenheimer has all the powers, duties, rights, privileges, and immunities conferred and imposed on cities by the general laws of North Carolina.

"ARTICLE II. CORPORATE BOUNDARIES.

"Section 2.1. **Village Boundaries.** Until modified in accordance with law, the boundaries of the Village of Misenheimer are as follows:

Beginning at a point, the intersection of the extended center line of Wesley Chapel Road and the southern right-of-way of NC 49 Highway, thence from said point of beginning in a southwesterly direction with the southern right-of-way of NC 49 Highway approximately 623 feet to the intersection of the southern right-of-way of NC 49 Highway with the extended southern boundary of PIN 661202680112, thence in a northwesterly direction to the southwestern corner of PIN 661202680112, thence following the western boundary of the aforementioned parcel in a northerly direction to the southwestern corner of PIN 661202594073, thence in a northwesterly direction following the western boundary of PIN 661202594073 to the southern right-of-way of Mattons Grove Church Road, thence in a northwesterly direction to the southwestern corner of PIN 661201497564, thence in a northerly direction along the western boundary of PIN 661201497564 to the southwest corner of PIN 661304501502, thence in a northwesterly direction along the western boundary of the aforementioned parcel to its common corner with PIN 661303426162, thence continuing in a northwesterly direction along the western boundary of the aforementioned parcel approximately 75 feet to a corner, thence in a northeasterly direction along the western boundary of the aforementioned parcel approximately 128 feet to a corner, thence in a northwesterly direction along the western boundary of the aforementioned parcel approximately 223 feet to a corner, thence in a northwesterly direction along the western boundary of the aforementioned parcel approximately 245 feet to a corner, thence in a southwesterly direction along the western boundary of the aforementioned parcel approximately 765 feet to a corner, thence in a northwesterly direction along the western boundary of the aforementioned parcel approximately 415 feet to a corner, thence in a northeasterly direction along the western boundary of the aforementioned parcel approximately 977 feet to the northeast corner of PIN 661303116744, thence in a northwesterly direction along the western boundary of PIN 661303426162 approximately 775 feet to the southeast corner of PIN 661303240441, thence in a northeasterly direction along the western boundary of PIN 661303426162 approximately 1,720 feet to the southeastern corner of PIN 661303249399, thence in a northwesterly direction along the southern boundary of the aforementioned parcel approximately 322 feet to the southwest corner of the aforementioned parcel, thence in a northeasterly direction along the western boundary of PIN 661303249399, approximately 466 feet to the southern right-of-way of Glenmore Road, thence in a northwesterly direction along the southern right-of-way of Glenmore Road approximately 420 feet to the intersection of the southern right-of-way of Glenmore Road and the extended western boundary of PIN 661301258186, thence in a northeasterly direction along the western boundary of the aforementioned parcel approximately 800 feet to the intersection of the extended western boundary of the aforementioned parcel and the northeastern right-of-way of US 52 Highway, thence in a southeasterly direction along the northern right-of-way of US 52 Highway approximately 1,855 feet to the southwestern corner of PIN 661303448640, thence in a northeasterly direction along the western boundary of the aforementioned parcel to its northernmost corner, thence in a generally southerly direction, following the eastern boundary of the aforementioned parcel to its easternmost corner, said corner also being a common corner with PIN 661304543342, thence in a northwesterly direction along the northern boundary of PIN 661304543342 approximately 145 feet to the northwestern corner of the aforementioned parcel thence in a southerly direction along the western boundary of the aforementioned parcel to the northern right-of-way of US 52 Highway. Thence in a southeasterly direction along the northern right-of-way of US 52 Highway approximately 1,050 feet to the southwestern corner of PIN

661304643049, thence in a northerly direction along the western boundaries of PINs 661304643049, 661304643361, 661304643497, 661304644611, and 661304644846 to the northwest corner of PIN 661304644846, thence in a northerly direction approximately 60 feet to the southwest corner of PIN 661302655348, thence in a northerly direction along the western boundaries of PINs 661302655348 and 661302655544 to the northernmost corner of PIN 661302655544, thence in a southeasterly direction along the northern boundary of the aforementioned parcel approximately 200 feet to the northeastern corner of the aforementioned parcel, thence in a southerly direction approximately 620 feet to the southernmost corner of PIN 661302596350, said point being located in the northwestern right-of-way of Reeves Island Road, thence along the northwestern right-of-way of Reeves Island Road in a northeasterly direction approximately 350 feet, to the intersection of the northwestern right-of-way of Reeves Island Road and the northwesterly extended northern boundary of PIN 661302752445, thence in a southerly direction along the northern boundary of the aforementioned parcel approximately 300 feet to the southeast corner of PIN 661302596350, thence in a northerly direction crossing the right-of-way of Reeves Island Road approximately 544 feet to the southwest corner of PIN 661302882512, thence in an easterly direction crossing the right-of-way of Reeves Island Road along the northern boundary of PIN 661304847498 and continuing in an easterly direction along the northern boundary of the aforementioned parcel and then in a southerly direction along the eastern boundary of the aforementioned parcel to the southeastern corner of PIN 661304847498, said point also being the northeastern corner of PIN 662303100762, thence in a westerly direction along the southern boundary of PIN 661304847498 approximately 1,235 feet, crossing the right-of-way of US 52 Highway to the southeast corner of PIN 661304914577, thence in a westerly direction along the southern boundary of the aforementioned parcel approximately 570 feet to the southwest corner of the aforementioned parcel, thence in a northwesterly direction along the southwestern boundaries of PINs 661304914577, 661304911763, 661304911954, and 661304920059, to the easternmost corner of PIN 661304825379, thence in a southwesterly direction along the southeastern boundaries of the aforementioned parcel and PINs 661304825234, 661304812626, 661304814927, and 661304712926 to the southeast corner of the aforementioned parcel, thence in an easterly direction along the northern boundary of PIN 661304702603 approximately 1,150 feet to the northeast corner of the aforementioned parcel, thence in a southerly direction along the eastern boundary of the aforementioned parcel approximately 495 feet to a corner, thence in a westerly direction along the boundary of the aforementioned parcel approximately 780 feet to a corner, thence in a southerly direction along the boundary of the aforementioned parcel approximately 780 feet to the southeast corner of PIN 661304702603, thence in a westerly direction along the southern boundary of PIN 661304702603 approximately 1,475 feet to the northeast corner of PIN 661202686946, thence in a southerly direction along the eastern boundary of the aforementioned parcel approximately 820 feet to the northwest corner of PIN 661202780863, thence in a northeasterly direction with the northern boundary of the aforementioned parcel approximately 290 feet to the northeast corner of the aforementioned parcel, thence in a southerly direction with the eastern boundary of the aforementioned parcel approximately 563 feet to the southeastern corner of the aforementioned parcel, thence in an easterly direction approximately 35 feet to the northeast corner of PIN 661202688269, thence in a southerly direction with the eastern boundary of the aforementioned parcel for an approximate distance of 470 feet to the southeast corner of

the aforementioned parcel, thence continuing in the same direction to the southern right-of-way of NC 49 Highway, thence in a westerly direction along the southern right-of-way of NC 49 Highway to the point of beginning.

"ARTICLE III. GOVERNING BODY.

"Section 3.1. **Structure of Governing Body; Number of Members.** The governing body of the Village of Misenheimer is the Mayor and the Village Council, which shall have four members.

"Section 3.2. **Temporary Officers.** Until the organizational meeting after the initial election in 2004 provided for by Section 4.1 of this Charter, Chuck Ambrose, Peter Edquist, Maria Fisher, Michael Herron, and Beth Huber are appointed members of the Village Council of the Village of Misenheimer, and they shall possess and exercise the powers granted to the governing body until their successors are elected or appointed and qualified pursuant to this Charter. The temporary officers shall elect a person from among the members of the temporary governing body to serve as interim mayor. If any person named in this section is unable to serve, the remaining temporary officers shall, by majority vote, appoint a person to serve until the initial municipal election is held in 2004.

"Section 3.3. **Manner of Electing Village Council; Term of Office.** The qualified voters of the entire Village shall elect the members of the Village Council, and, except as provided in this section, they shall serve four-year terms. In 2004, the three candidates receiving the highest numbers of votes shall be elected to four-year terms, and the two candidates receiving the next highest numbers of votes shall be elected to two-year terms. In 2006, and quadrennially thereafter, two members shall be elected to four-year terms. In 2008, and quadrennially thereafter, three members shall be elected to four-year terms.

"Section 3.4. **Manner of Electing Mayor; Term of Office; Duties.** At the organizational meeting following each municipal election, the Village Council shall elect one of its members as Mayor, and the Mayor shall serve at the pleasure of the Village Council. The Mayor shall be the official head of Village government and shall preside at all meetings of the Village Council. The Mayor shall exercise such powers and duties as conferred by the general laws of this State and this Charter and as directed by the Village Council. In the case of a vacancy in the office of Mayor, the remaining members of the Village Council shall choose from their membership a person to serve as Mayor for the unexpired term.

"Section 3.5. **Residency Required.** Members of the governing body of the Village of Misenheimer, whether elected or appointed, must be qualified voters who reside within the corporate limits of the Village in order to qualify to take, hold, and continue in such office.

"ARTICLE IV. ELECTIONS.

"Section 4.1. **Conduct of Village Elections.** Village officers shall be nominated and elected on a nonpartisan basis as provided in G.S. 163-294.

"ARTICLE V. ADMINISTRATION.

"Section 5.1. **Village to Operate Under Mayor-Council Plan.** The Village shall operate under the Mayor-Council form of government as provided in Part 3 of Article 7 of Chapter 160A of the General Statutes.

"ARTICLE VI. TAXES AND BUDGET ORDINANCE.

"Section 6.1. **Commencement of Tax Collection.** From and after the effective date of this act, the citizens and property in the Village of Misenheimer shall be subject to municipal taxes levied for the year beginning July 1, 2003, and for that purpose the

Village shall obtain from Stanly County a record of property in the area herein incorporated which was listed for property taxes as of January 1, 2003.

"Section 6.2. **Budget.** The Village may adopt a budget ordinance for fiscal year 2003-2004 without following the timetable in the Local Government Budget and Fiscal Control Act but shall follow the sequence of actions in the spirit of the act insofar as is practical. For fiscal year 2003-2004, ad valorem taxes may be paid at par or face amount within 90 days of adoption of the budget ordinance and thereafter in accordance with the schedule in G.S. 105-360. If the effective date of the incorporation is prior to July 1, 2003, the Village may adopt a budget ordinance for fiscal year 2002-2003 without following the timetable in the Local Government Budget and Fiscal Control Act but shall follow the sequence of actions in the spirit of the act insofar as practical. No ad valorem taxes may be levied for the 2002-2003 fiscal year."

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

In the General Assembly read three times and ratified this the 26<sup>th</sup> day of June, 2003.

Became law on the date it was ratified.

**S.B. 995**

**Session Law 2003-269**

**AN ACT TO ALLOW FLEXIBILITY IN SCHOOL CONSTRUCTION AND REPAIR CONTRACTS FOR THE WINSTON-SALEM/FORSYTH COUNTY SCHOOL SYSTEM.**

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 143-128(a1) is amended by adding a new subdivision to read:

- "(6) Design-build contracting. – Notwithstanding G.S. 143-129, G.S. 143-132, and any other provision of this section, a local board of education may use the design-build method of construction as follows:
- a. The local board of education must seek to prequalify and solicit at least five design-build teams to bid on the project and must receive sealed proposals from at least three of those teams.
  - b. The local board of education shall interview at least three of the design-build teams that submit proposals. The local board of education shall award the contract to the best qualified team, taking into account the time of completion of the project, compliance with the provisions of G.S. 143-128.2, and the cost of the project as the major factors.
  - c. Facilities constructed may be turnkey projects, including all materials, equipment, and supplies normally associated with school programs.
  - d. G.S. 143-128.2 applies to the construction of projects described in this subdivision."

**SECTION 2.** Other Methods. – Nothing in this act limits the use of any method of contracting already authorized by law under Articles 3D and 8 of Chapter 143 of the General Statutes.

**SECTION 3.** This act only applies to the Winston-Salem/Forsyth County School System.

**SECTION 4.** If the procedure set forth in Section 1 of this act is used, the Winston-Salem/Forsyth County School Board shall make an annual report to the North Carolina State Building Commission, beginning in January 2005 and continuing in January of each successive year, concerning the comparative costs and effectiveness, efficiency, and economy, if any, achieved by its implementation of this act. The Board shall submit a final report to the Commission in January 2007.

**SECTION 5.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 26<sup>th</sup> day of June, 2003.

Became law on the date it was ratified.

**H.B. 469****Session Law 2003-270**

AN ACT TO AUTHORIZE COLUMBUS, DAVIE, DUPLIN, AND LENOIR COUNTIES, CERTAIN DISTRICTS CREATED BY THESE COUNTIES, AND MUNICIPALITIES LOCATED WITHIN THESE COUNTIES TO ATTACH PERSONAL PROPERTY, GARNISH WAGES, AND PLACE LIENS ON CERTAIN REAL PROPERTY TO COLLECT UNPAID FEES FOR WATER AND SEWER SERVICES.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** A county may adopt an ordinance providing that a fee charged by the county for water or sewer services and remaining unpaid for a period of 90 days may be collected in any manner by which delinquent personal or real property taxes can be collected. If the ordinance states that delinquent fees may be collected in the same manner as delinquent real property taxes, the delinquent fees are a lien on the real property owned by the person contracting with the county for the service, and the ordinance shall provide for an appeals process. If a lien is placed on real property, the lien shall be valid from the time of filing in the office of the clerk of superior court of the county in which the service was provided a statement containing the name and address of the person against whom the lien is claimed, the name of the county, county water and sewer district, county service district, or municipality, whichever applies, claiming the lien, the specific service that was provided, the amount of the unpaid charge for that service, and the date and place of furnishing that service. No lien under this act shall be valid unless filed in accordance with this section after 90 days of the date of the failure to pay for the service and within 180 days of the date of the failure to pay for the service. The lien may be discharged as provided in G.S. 44-48.

**SECTION 2.** The reference to county shall include a county, a county water and sewer district created under Article 6 of Chapter 162A of the General Statutes, a county service district created under Article 16 of Chapter 153A of the General Statutes, or a municipality located wholly or partly within that county.

**SECTION 3.** This act shall not apply to fees collectable under Articles 9A and 9B of Chapter 44 of the General Statutes, G.S. 153A-293, and G.S. 160A-314.1.

**SECTION 4.** This act applies only to Columbus, Davie, Duplin, and Lenoir Counties, county water and sewer districts located in Columbus, Davie, Duplin, or Lenoir County, county service districts located within Columbus, Davie, Duplin, or Lenoir County, and municipalities located wholly or partially within Columbus, Davie, Duplin, or Lenoir County.



**SECTION 5.** This act becomes effective July 1, 2003.

In the General Assembly read three times and ratified this the 26<sup>th</sup> day of June, 2003.

Became law on the date it was ratified.

**H.B. 597**

**Session Law 2003-271**

AN ACT REMOVING CERTAIN DESCRIBED PROPERTY FROM THE CORPORATE LIMITS OF THE CITY OF ROANOKE RAPIDS AND FROM THE CORPORATE LIMITS OF THE CITY OF LUMBERTON.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** The following described property is removed from the corporate limits of the City of Roanoke Rapids:

Being a strip of land 70 (seventy) feet in approximately 656± feet east of the eastern right-of-way line of N.C.S.R. 1710 and approximately 900± feet northeast of the intersection of N.C.S.R. 1734 and N.C.S.R. 1710 in Weldon Township, Halifax County, North Carolina, and being more particularly described as follows:

BEGINNING at an existing iron pipe found, the southeast corner of a 13.892 acre tract of land shown on a drawing titled "Plat Showing Property Being Conveyed to Duquesne Energy, Inc. from Rightmeyer Machine Rentals, Inc.", recorded at Plat Cabinet 6, Page 22-T of the Halifax County Registry. Said point of beginning having North Carolina Grid (N.A.D. 83) coordinates of N(Y) = 980,659.58 feet and E(X) = 2,405,954.45 feet and said point of beginning being further located S 08° 14' 55" W 100.16 feet with and along the eastern right-of-way line of N.C.S.R. 1710 and S 89° 42' 48" E - 690.50 feet from an existing concrete monument found at the intersection of the northern right-of-way line of N.C.S.R. 1734 and the eastern right-of-way line of N.C.S.R. 1710; thence from the point of beginning so located, N 89° 42' 48" W - 71.32 feet to a point; thence N 11° 20' 22" E - 967.45 feet to a point; thence S 89° 47' 37" E - 71.34 feet to a point; thence S 11° 20' 22" W - 967.55 feet to the point and place of beginning containing 67,723 square feet (1.555 acres) plus or minus.

**SECTION 2.** The following described property is removed from the corporate limits of the City of Lumberton:

Lying and being in Back Swamp Township, Robeson County, North Carolina, about 3.55 miles southwest of the center of the City of Lumberton, about 0.2 miles northeast of the intersection of N.C. Highway No. 41 with Sanchez Drive (Secondary Road No. 2316), on the northeast side of and adjoining Sanchez Drive (Secondary Road No. 2316), and on the southeast side of and adjoining Ledgen Road (Secondary Road No. 2334). This parcel is bounded on the southwest by Sanchez Drive (Secondary Road No. 2316), on the northwest by Ledgen Road (Secondary Road No. 2334), on all other sides by other lands of Robeson County, a body politic and corporate of the state of North Carolina, and being more particularly described as follows:

**BEGINNING** at the intersection of the northeastern right-of-way (75 feet from center) of Sanchez Drive (Secondary Road No. 2316) with the southeastern right-of-way (30 feet from center) of Ledgen Road (Secondary Road No. 2334) - this beginning point is positioned North 38 degrees 39 minutes 03 seconds 77.93 feet from an existing "MAG" masonry nail having N.C. NAD 83 grid coordinates of N - 303,537.850 feet and E - 1,983,651.583 feet; said beginning point is further identified as being located North 67 degrees 50 minutes 24 seconds West 803.10 feet from an

existing iron rod at the present corporate limit angle point on the northeastern right-of-way line of Sanchez Drive (Secondary Road No. 2316) - and runs thence along the southeastern right-of-way (30 feet from center) of Ledgen Road (Secondary Road No. 2334), North 15 degrees 02 minutes 41 seconds East 405.42 feet to a point in said right-of-way line; thence to and along the southwestern edge of the masonry wall of the Robeson County Sheriff's Department building, South 67 degrees 56 minutes 14 seconds East 247.81 feet to a corner of said wall; thence continuing along the outside edge of a wall of said building, North 22 degrees 03 minutes 46 seconds East 45.33 feet to a corner of the wall of said building; thence along the outside edge of a wall of the Robeson County jail building, South 67 degrees 56 minutes 14 seconds East 23.17 feet to a corner of said wall; thence North 22 degrees 03 minutes 46 seconds East 30.03 feet to a corner of said wall; thence continuing along the outside wall of the Robeson County jail building, South 67 degrees 56 minutes 14 seconds East 230.00 feet to a point; thence as a new line parallel to and located 343.88 feet northwest of the present corporate limit line of the City of Lumberton, South 21 degrees 08 minutes 23 seconds West 478.58 feet to a point in the northeastern right-of-way (75 feet from center) of Sanchez Drive (Secondary Road No. 2316); thence along said right-of-way line, North 67 degrees 50 minutes 24 seconds West 459.16 feet to the **BEGINNING**, containing 4.87 acres as surveyed by George T. Paris and Associates, P.A., using NAD 83 grid meridian. This parcel is a portion of the lands conveyed to Robeson County, a body politic and corporate of the state of North Carolina, as recorded in Deed Book 687, page 865, Robeson County Registry.

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

In the General Assembly read three times and ratified this the 26<sup>th</sup> day of June, 2003.

Became law on the date it was ratified.

## **H.B. 673**

## **Session Law 2003-272**

### **AN ACT TO ENABLE THE COUNTY OF AVERY TO ESTABLISH AN AVERY COUNTY FIRE COMMISSION.**

*The General Assembly of North Carolina enacts:*

**SECTION 1.** There is hereby created the "Avery County Fire Commission" (hereinafter referred to as the "Commission"), which shall be a body corporate and politic, having the powers and jurisdiction hereinafter enumerated and such other and additional powers as shall be conferred upon it by general law and future acts of the General Assembly.

**SECTION 2.** The Avery County Board of Commissioners and the Commission shall jointly adopt a mission statement as well as a memorandum of understanding jointly agreed upon and clearly stating the expectations and obligations of each under this act.

**SECTION 3.(a)** The Commission shall consist of five persons who are residents of Avery County, two of whom shall be consumers appointed by the Board of Commissioners and two of whom shall be firemen approved by the Avery County Fire Association and appointed by the Board of Commissioners. The other four sitting members of the Commission shall choose the remaining member. In case of a deadlock or failure of the seated members to act within 60 days to fill the fifth seat, a five-member committee composed of the Chairman of the Board of Commissioners and

another commissioner appointed by the Chairman, the President of the Fire Association and another member of the Fire Association, and a fifth person chosen jointly by the other four members of the committee will make the appointment. The County Manager shall serve as a nonvoting ex officio member of the Commission and shall be the liaison from the Commission to the Board of Commissioners. No elected official may serve on the Commission. Any member of the Commission can be a member of a rescue unit, but membership in a rescue unit is not a prerequisite for any appointment.

**SECTION 3.(b)** One of the initial Fire Association appointees shall be appointed for a two-year term; the other shall be appointed for a one-year term. One of the initial appointees by the Board of Commissioners shall be appointed for a two-year term; the other shall be appointed for a one-year term. The at-large member appointed by the four seated members shall serve a two-year term. All successors shall serve two-year terms. Unexcused absence from two out of three consecutive, regularly scheduled meetings, or absence from one-third of the meetings per year, shall be grounds for removal from the Commission. Recurring noncompliance with Commission decisions or duly adopted policy enacted by a majority vote of the Commission shall be grounds for removal from the Commission by the Board of Commissioners.

**SECTION 3.(c)** The officers of the Commission shall consist of a chairman, a vice-chairman, and a secretary/clerk. At the first meeting of each calendar year, the Commission shall elect from its own membership, by majority vote, a chairman, a vice-chairman, and a secretary/clerk, each of whom shall serve for one year or until the officer's death, resignation, retirement, or removal. The chairman, vice-chairman, or secretary/clerk may be removed from office by a simple majority vote of the Commission whenever, in its judgment, the best interests of the Commission will be served thereby. The Commission shall fill any vacant officer's position within 30 days of the vacancy.

**SECTION 3.(d)** The chairman shall preside at all meetings of the Commission, appoint all subcommittees, serve as an ex officio member of such subcommittees, delegate responsibilities to members, notify members and the media of meeting times and dates, and, upon approval of the Commission member, sign all minutes and any such records, vouchers, or other documents connected with the work of the Commission requiring such signature. The chairman is responsible for the decorum of the meeting and may remove from the meeting, by simple majority, any member who is deemed to be disruptive.

In the absence of the chairman, the vice-chairman shall perform the duties of the chairman. The vice-chairman shall also exercise such duties as from time to time may be assigned to him by the chairman of the Commission.

The secretary/clerk shall record the actions of the Commission, maintain and secure all pertinent Commission material, and ensure adequate correspondence with Commission members. All approved minutes of Commission meetings will be made available for public review upon request.

**SECTION 3.(e)** The Commission shall meet at least monthly for regular meetings. The regular meetings shall be held in a public facility convenient to the public, preferably at the County Office Building.

The chairman may call such special meetings as may be deemed necessary to carry out the duties of the Commission, or, upon the written request of at least three members, the chairman shall call a meeting within 10 days. Notice of special meetings shall be given to all Commission members at least 48 hours in advance of any such meetings.

Three or more members shall constitute minimum attendance to conduct business.

Notice of the agenda items to be considered at each regular meeting shall be communicated to all members at least three days prior to each meeting. All meetings shall be conducted with strict compliance to the duly adopted Commission policy and procedures manual.

**SECTION 3.(f)** Each Commission member shall be entitled to one vote. Members must register their request to abstention from voting on matters that would pose for them a conflict of interest. Abstention may be allowed only by approval of a majority of the remaining members.

**SECTION 3.(g)** The Commission policy and procedures manual and changes thereto shall be approved by the Avery County Board of Commissioners.

**SECTION 3.(h)** The Commission shall adopt suitable bylaws policy and procedures, contracts, rules, and regulations for its management subject to approval by the Avery County Board of Commissioners. The bylaws may be amended by a vote of the Commission subject to the approval of the Avery County Board of Commissioners. The members of the Commission may receive compensation or per diem and shall be allowed their actual traveling expenses incurred in transacting the business and at the insistence of the Commission.

**SECTION 4.(a)** The Commission may:

- (1) Purchase, acquire, establish, construct, own, control, lease, improve, maintain, or operate real or personal property.
- (2) Sue and be sued in the name of the Commission.
- (3) Make contracts and hold any personal property necessary for the exercise of the powers of the Commission.
- (4) Make all reasonable rules and regulations it deems necessary for the proper maintenance, use, operation, and control of Commission property and provide penalties for the violations of these rules and regulations; provided, the rules and regulations are not in conflict with the laws of North Carolina or local ordinance.
- (5) Sell, lease, or otherwise dispose of any property, real or personal, belonging to the Commission according to general law applicable to counties. Sale of real property shall be made in accordance with general law applicable to counties.
- (6) Be responsible for any and all insurance claims or liabilities. Avery County does not incur any personal or property liability.
- (7) Deposit or invest and reinvest any of its funds as provided by the Local Government Finance Act, as it may be amended from time to time.
- (8) Have a corporate seal, which may be altered at will.
- (9) Contract with and accept grants from other agencies or representatives of said governmental bodies.
- (10) Acquire from the county, either by gift or for such consideration as the county may deem wise, any real or personal property that it now owns or may hereafter acquire.

**SECTION 4.(b)** The Commission shall be liable for its acts or omissions and shall purchase liability insurance in such amounts as the Avery County Board of Commissioners shall require. Avery County shall not be liable for the acts or omissions of the Commission.

**SECTION 5.** The Commission has the same exemptions in respect to payment of taxes and license fees and eligibility for sales and use tax refunds to the same extent as provided for municipal corporations by the laws of the State of North Carolina.

**SECTION 6.** The Commission shall make an annual report to the Avery County Board of Commissioners setting forth in detail the operations and transactions conducted by it pursuant to this act. The Commission shall not have the power to pledge the credit of Avery County, or any subdivision thereof, or to impose any obligation on Avery County, or any of its subdivisions, except when that power is expressly granted by statute.

**SECTION 7.** The Avery County Board of Commissioners shall appropriate funds derived from the Avery County Fire Tax to carry out the provisions of this act in any proportion or upon any basis as may be determined by the Avery County Board of Commissioners. The Commission may make recommendations to the Avery County Board of Commissioners with respect to such appropriations.

**SECTION 8.** The powers granted to the Commission shall not be effective until the Avery County Board of Commissioners has appointed the members of the Commission, and nothing in this act shall require the Board of Commissioners to make the initial appointments. It is the intent of this act to enable but not to require the formation of the Commission.

**SECTION 9.** If any one or more sections, clauses, sentences, or parts of this act shall be adjudged invalid, such judgment shall not affect, impair, or invalidate the remaining provisions thereof but shall be confined in its operation to the specific provisions held to be invalid, and the inapplicability or invalidity of any section, clause, sentence, or part of this act in one or more instances or circumstances shall not be taken to affect or prejudice in any way its applicability or validity in any other instance.

**SECTION 10.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 26<sup>th</sup> day of June, 2003.

Became law on the date it was ratified.

## **H.B. 705**

## **Session Law 2003-273**

AN ACT TO ANNEX TO THE TOWN OF MATTHEWS ALL THE TERRITORY REMAINING IN ITS SPHERE OF INFLUENCE AND TO ANNEX CERTAIN PROPERTIES INTO THE TOWN OF WAXHAW.

*The General Assembly of North Carolina enacts:*

**SECTION 1.(a)** The corporate limits of the Town of Matthews are extended to include the entire area remaining in its sphere of influence within Mecklenburg County. As used in this act, "sphere of influence" means that area designated as such in annexation agreements between the Town of Matthews and other municipalities under Chapter 953 of the 1983 Session Laws, or under other general or local acts.

**SECTION 1.(b)** The Town of Matthews shall record in the office of the Register of Deeds of Mecklenburg County a detailed map of the area annexed by this act. The map shall also delineate any area for which annexation is deferred pursuant to Section 1(c) of this act.

**SECTION 1.(c)** This section applies only to the Town of Matthews and becomes effective June 30, 2003, except that as to land that is being taxed at present-use

value pursuant to G.S. 105-277.4 on the day this act is ratified, it becomes effective on the same day as determined under G.S. 160A-49(f2) that it would have become effective if the area had been annexed under Part 3 of Article 4A of Chapter 160A of the General Statutes. The Town may, however, provide police, fire, and emergency medical services to areas whose annexation has been deferred by this section.

**SECTION 2.(a)** The following described properties are added to the corporate limits of the Town of Waxhaw:

TRACT 1.

LYING AND BEING in Sandy Ridge Township, Union County, North Carolina and being more particularly described as follows:

To find the point or place of BEGINNING, commence at a point located at the intersection of the centerline of N.C. Highway #16 and the centerline of the sixty-foot (60') right-of-way of Cuthbertson Road (S.R. No. 1321) and proceed North 63-55-05 East a distance of 4193.55 feet to a railroad spike located on the centerline of the aforesaid right-of-way of Cuthbertson Road, said railroad spike also being located on a northern boundary line of that property owned by Rosly Pfister (now or formerly) as described in that document recorded in Book 251 at Page 267 of the Union County Public Registry, said railroad spike being the point or place of BEGINNING; running thence from the point or place of BEGINNING along a portion of the aforesaid northern boundary line of that property owned by Rosly Pfister South 69-30-00 West, passing a 3/4-inch iron rod located on the western margin of the aforesaid right-of-way of Cuthbertson Road at a distance of 48.12 feet, a total distance of 809.62 feet to a 5/8-inch iron rod in old stone pile located at a corner of that property owned by George E. Holland and wife Joanne R. Holland (now or formerly); running thence along a northern boundary line of that property owned by George E. Holland and wife, Joanne R. Holland South 70-31-30 West a distance of 303.62 feet to an old 27-inch diameter beech on east bank of the West Fork of Twelve Mile Creek, said beech also being located at a corner of that property owned by Mrs. W. J. Lewis (now or formerly) as described in that document recorded in Book 98 at Page 242, aforesaid Registry; running thence along the boundary of the aforesaid property owned by Mrs. W. J. Lewis North 04-13-50 West a distance of 159.68 feet to a point located in the creek channel of the aforesaid West Fork of Twelve Mile Creek; running thence within the aforesaid creek channel of the West Fork of Twelve Mile Creek and along the aforesaid boundary of that property owned by Mrs. W. J. Lewis the following eleven (11) courses and distances:

- (1) North 18-41-10 East a distance of 307.71 feet to a point;
  - (2) North 27-05-20 West a distance of 141.60 feet to a point;
  - (3) North 19-32-00 West a distance of 164.90 feet to a point;
  - (4) North 07-42-30 West a distance of 166.13 feet to a point;
  - (5) North 08-27-00 East a distance of 114.94 feet to a point;
  - (6) North 24-26-40 West a distance of 289.60 feet to a point;
  - (7) North 41-49-20 West a distance of 250.93 feet to a point;
  - (8) North 46-18-40 West a distance of 200.33 feet to a point;
  - (9) North 21-22-40 West a distance of 242.32 feet to a point;
  - (10) North 37-21-30 West a distance of 661.79 feet to a point;
- and (11) North 58-07-10 West a distance of 137.41 feet to a point; thence leaving the aforesaid creek channel of the West Fork of Twelve Mile Creek and continuing along the aforesaid boundary of that property owned by Mrs. W. J. Lewis the following four (4) courses and distances: (1) North 84-59-00 West a distance of 59.23 feet to a 1-inch

iron rod (formerly a P.O. stump); (2) South 87-25-40 West a distance of 705.80 feet to a 3/4-inch iron in old stone pile; (3) North 19-24-00 West a distance of 413.43 feet to a 1-inch iron rod in stone pile (North 47 West a distance of 36 feet from spring); and (4) North 58-17-30 East a distance of 774.01 feet to a 3/4-inch iron in mouth of spring branch, said point also being located in the creek channel of Big Branch; running thence within the aforesaid creek channel of Big Branch and continuing along the aforesaid boundary of that property owned by Mrs. W. J. Lewis the following four (4) courses and distances: (1) South 46-10-30 East a distance of 84.16 feet to a point; (2) South 77-41-50 East a distance of 168.53 feet to a point; (3) North 64-31-50 East a distance of 134.22 feet to a point; and (4) North 27-06-50 East a distance of 95.57 feet to a point located in the aforesaid creek channel of the West Fork of Twelve Mile Creek; running thence within the aforesaid creek channel of the West Fork of Twelve Mile Creek and continuing along the aforesaid boundary of that property owned by Mrs. W. J. Lewis the following seven (7) courses and distances:

- (1) North 81-42-30 West a distance of 83.00 feet to a point;
- (2) North 41-30-10 West a distance of 135.63 feet to a point;
- (3) North 76-16-10 West a distance of 49.21 feet to a point;
- (4) North 16-47-40 East a distance of 57.07 feet to a point;
- (5) North 67-43-30 East a distance of 135.16 feet to a point;
- (6) North 59-29-20 East a distance of 268.53 feet to a point; and
- (7) North 82-57-50 East a distance of 117.06 feet to a 1/2-inch iron rod in large rock outcropping in creek; thence leaving the aforesaid creek channel of the West Fork of Twelve Mile Creek and continuing along the aforesaid boundary of that property owned by Mrs. W. J. Lewis the following four (4) courses and distances: (1) South 70-13-00 East a distance of 520.85 feet to a 3/4-inch iron rod in stone pile; (2) North 12-21-20 East a distance of 454.27 feet to a 3/4-inch iron rod in stone pile (1-foot northwest of a white maple); (3) North 62-06-30 East a distance of 322.50 feet to a 3/4-inch iron rod with stones on bank on south side of drain; and (4) North 51-36-00 East a distance of 72.75 feet to the highest point on northernmost rock of rock outcropping in creek, said point being located within the aforesaid creek channel of the West Fork of Twelve Mile Creek; thence running within the aforesaid creek channel of the West Fork of Twelve Mile Creek and continuing along the aforesaid boundary of that property owned by Mrs. W. J. Lewis the following three (3) courses and distances: (1) North 11-55-00 West a distance of 361.95 feet to a 5/8-inch iron rod in creek; (2) North 07-20-00 West a distance of 350.47 feet to a 5/8-inch iron rod in creek; and (3) North 11-10-00 East a distance of 260.36 feet to a 5/8-inch iron rod in creek; thence leaving the aforesaid creek channel of the West Fork of Twelve Mile Creek and continuing along the aforesaid boundary of that property owned by Mrs. W. J. Lewis North 02-39-00 West a distance of 268.20 feet to a 3/4-inch iron rod in stone pile in old road bed; running thence South 65-50-40 East a distance of 1554.55 feet to a 5/8-inch iron rod in old stone pile at fence corner, all or a part of which line adjoins a boundary of that property owned by W. J. Lewis Heirs (now or formerly) as described in that document recorded in Book 109 at Page 631, aforesaid Registry (Correction Deed referring to that document recorded in Book 105 at Page 20, aforesaid Registry) and as shown on plat recorded in Plat Book 3 at Page 9, aforesaid Registry; thence continuing along the aforesaid boundary of that property owned by W. J. Lewis Heirs the following two (2) courses and distances: (1) South 18-31-30 West a distance of 1929.96 feet to an old 3/4-inch square shaft in stone pile at fence corner; and (2) South 86-30-00 East, passing a 3/4-inch iron rod with stones located on the western margin of the aforesaid right-of-way of Cuthbertson Road

at a distance of 891.88 feet, a total distance of 922.37 feet to a railroad spike located on the centerline of the aforesaid right-of-way of Cuthbertson Road; thence continuing along a portion of the aforesaid boundary of that property owned by W. J. Lewis Heirs and a boundary line of that property owned by James A. Mullis and wife, Nancy F. Mullis (now or formerly) as shown on that plat recorded in Plat Book 3 at Page 9, aforesaid Registry the following four (4) courses and distances: (1) South 86-30-00 East, passing a 1/2 inch iron rod located on the eastern margin of the aforesaid right-of-way of Cuthbertson Road at a distance of 30.49 feet, a total distance of 1669.81 feet to an old 3/4-inch square shaft; (2) North 25-23-30 West a distance of 305.26 feet to an old 3/4-inch square shaft; (3) North 35-27-30 East a distance of 180.09 feet to an old 1-inch strap iron; and (4) North 37-15-00 East a distance of 145.48 feet to an old 1-1/2-inch diameter iron pipe located at a southern corner of that property owned by William E. Farmer and wife, Barbara L. Farmer (now or formerly) as described in that document recorded in Book 363 at Page 525, aforesaid Registry; running thence along a southeastern boundary line of the aforesaid property owned by William E. Farmer and wife, Barbara L. Farmer and along the southeastern boundary line of those properties owned by (1) Frank Forest (now or formerly) as described in that document recorded in Book 363 at Page 598, aforesaid Registry, (2) Lyle Dean (now or formerly), (3) Lyle Dean and wife, Winnie Mae D. Dean (now or formerly) as described in that document recorded in Book 214 at Page 583, aforesaid Registry, and (4) Samuel B. Boatright and wife, Velma S. Boatright as described in that document recorded in Book 137 at Page 491, aforesaid Registry North 35-33-40 East a distance of 1510.41 feet to a 3/4-inch iron rod in old stone pile by a dead black Jack, said iron rod also being located at a western corner of that property owned by Carole E. Bookhart (now or formerly) as described in that document recorded in Will Book 83-E at Page 227 of the Office of the Clerk of Superior Court of Union County; running thence along the boundary of the aforesaid property owned by Carole E. Bookhart the following three (3) courses and distances: (1) South 66-39-10 East a distance of 548.59 feet to a 3/4-inch iron rod in old stone pile on west edge of old road; (2) South 07-29-40 East a distance of 827.67 feet to a 3/4-inch iron rod by an old stone in fork of road (formerly a pine stump); (3) South 42-55-30 East a distance of 1006.06 feet to a 3/4-inch iron rod in stone pile located at the northwesternmost corner of that property known as a "church lot" (no deed found); running thence along the boundary of the aforesaid "church lot" the following three (3) courses and distances: (1) South 02-42-30 East a distance of 387.88 feet to a 3/4-inch iron rod (formerly a stone); (2) North 89-33-40 East a distance of 505.87 feet to a 3/4-inch iron rod in old stone pile; and (3) North 28-24-20 West a distance of 141.52 feet to a 3/4-inch iron rod in old stone pile located on a boundary line of the aforesaid property owned by Carole E. Bookhart; running thence along the aforesaid boundary of that property owned by Carole E. Bookhart the following three (3) courses and distances: (1) South 88-36-10 East a distance of 536.81 feet to a 3/4-inch iron rod in old stone pile; (2) South 27-03-40 West a distance of 127.80 feet to a 3/4-inch iron rod in old stone pile; and (3) South 04-36-30 East a distance of 418.91 feet to a 3/4-inch iron rod on north bank (formerly a stone) of the East Fork of Twelve Mile Creek, said iron rod also being located at a corner of that property owned by Harry H. Williams (now or formerly) as described in that document recorded in Book 414 at Page 917, aforesaid Registry; running thence within the aforesaid creek channel of the East Fork of Twelve Mile Creek and along the aforesaid boundary of that property owned by Harry H. Williams and along the boundary of those properties owned by (1) Jack T. Hamilton and wife, Paula B. Hamilton (now or formerly) as described in that document recorded



in Book 299 at Page 648 (Tract I), aforesaid Registry, and (2) William Carl Bennett as described in that document recorded in Book 253 at Page 408, aforesaid Registry the following fifteen (15) courses and distances:

- (1) South 80-35-50 West a distance of 603.74 feet to a point;
  - (2) South 20-09-50 West a distance of 97.68 feet to a point;
  - (3) South 22-32-50 East a distance of 346.19 feet to a point;
  - (4) South 09-34-10 East a distance of 179.36 feet to a point;
  - (5) South 36-52-00 West a distance of 85.82 feet to an old 1-inch iron shaft located at a western corner of that property owned by Harry Hood Williams (now or formerly) as described in that document recorded in Book 213 at Page 567, aforesaid Registry;
  - (6) South 54-38-20 West a distance of 373.52 feet to a point;
  - (7) South 73-42-00 West a distance of 109.41 feet to a point;
  - (8) South 84-49-00 West a distance of 202.57 feet to a point;
  - (9) North 80-39-40 West a distance of 136.33 feet to a point;
  - (10) North 38-25-30 West a distance of 140.71 feet to a point;
  - (11) North 25-26-30 West a distance of 191.44 feet to a point;
  - (12) South 81-57-30 West a distance of 72.48 feet to a point;
  - (13) South 27-30-20 West a distance of 217.04 feet to a point;
  - (14) South 47-16-10 West a distance of 827.69 feet to a point;
- and (15) South 37-49-20 West a distance of 114.60 feet to a point located at a corner of that property owned by Mrs. Bleeka Boatright (now or formerly) as described in that document recorded in Book 100 at Page 519, aforesaid Registry; thence running along the boundary of the aforesaid property owned by Mrs. Bleeka Boatright the following five (5) courses and distances: (1) North 47-48-50 West a distance of 33.87 feet to a 3/4-inch iron rod on north bank (formerly a stone) of the East Fork of Twelve Mile Creek; (2) North 47-48-50 West a distance of 1282.39 feet to the highest point of two old Negro head rocks; (3) North 48-06-10 West a distance of 392.62 feet to the highest point of two old Negro head rocks; (4) South 43-59-30 West a distance of 543.38 feet to a 3/4-inch iron rod in stone pile (formerly a P.O. stump); (5) South 69-30-00 West a distance of 1553.68 feet to an axle (set) located at a corner of that property owned by Rosly Pfister (now or formerly) as described in that document recorded in Book 251 at Page 267, aforesaid Registry; running thence along a portion of a boundary line of that property owned by Rosly Pfister South 69-30-00 West, passing a 3/4-inch iron rod located on the eastern margin of the aforesaid right-of-way of Cuthbertson Road at a distance of 333.14 feet, a total distance of 381.26 feet to a railroad spike located in the centerline of the right-of-way of Cuthbertson Road, said railroad spike being located at the point or place of BEGINNING and containing 462.828 acres as shown on that certain survey entitled "Map Showing Boundary Survey for Cuthbertson Road Joint Venture" dated September 3, 1976, last revised October 15, 1990, and prepared by William A. Soiset, Registered Land Surveyor, RLS-1415, reference to which survey is hereby made for a more particular description.

Note: All points in creek channel are referenced from 5/8-inch iron rods in stone piles on survey traverse line, as indicated on the above-referenced survey.

#### TRACT 2.

LYING AND BEING in Sandy Ridge Township, Union County, North Carolina and being more particularly described as follows:

To find the point or place of BEGINNING, commence at that point located at the intersection of the centerline of the right-of-way of N.C. Highway #16 and the centerline of the sixty-(60) foot right-of-way of Cuthbertson Road (S.R. No. 1321) and

proceed North 63-55-05 East a distance of 4193.55 feet to a railroad spike located on the centerline of the aforesaid right-of-way of Cuthbertson Road, said railroad spike also being located on a boundary line of that property owned by Harry DeLaney (now or formerly) as described in that document recorded in Book 430 at Page 836 of the Union County Public Registry; thence leaving the centerline of the aforesaid right-of-way of Cuthbertson Road and continuing along the aforesaid boundary line of that property owned by Harry DeLaney North 69-30-00 East, passing a 3/4-inch iron rod located on the eastern margin of the aforesaid right-of-way of Cuthbertson Road at a distance of 48.12 feet, a total distance of 381.26 feet to an axle (set), said axle (set) being the point or place of BEGINNING; running thence from said beginning Point along the aforesaid boundary line of that property owned by Harry Delaney the following four (4) courses and distances: (1) North 69-30-00 East a distance of 1553.68 feet to a 3/4-inch rod in stone pile (found); (2) North 43-59-30 East a distance of 543.38 feet to the highest point of two old Negro head rocks; (3) South 48-06-10 East a distance of 392.62 feet to the highest point of two old Negro head rocks; and (4) South 47-48-50 East, passing a 3/4-inch iron rod on North Bank (found) at a distance of 1282.39 feet, a total distance of 1316.26 feet to a point located in the centerline of the East Fork of Twelve Mile Creek, said point also being located on the boundary of that property owned by William Carl Bennett (now or formerly) as described in that document recorded in Book 253 at Page 408, aforesaid Registry; running thence along the centerline of the aforesaid East Fork of Twelve Mile Creek and along the boundary of the aforesaid property owned by William Carl Bennett and the boundaries of Lots 22 and 21 of Eastfield Plantation as shown on that plat recorded in Plat Cabinet B at File 5A, aforesaid Registry the following seventeen (17) courses and distances:

- (1) South 45-24-00 West a distance of 400.00 feet to a point;
- (2) South 41-11-00 West a distance of 400.00 feet to a point;
- (3) South 47-14-00 West a distance of 356.00 feet to a point;
- (4) South 51-09-15 West a distance of 365.00 feet to a point;
- (5) South 43-18-20 West a distance of 191.65 feet to a point;
- (6) South 54-39-00 West a distance of 40.00 feet to a point;
- (7) South 77-42-30 West a distance of 61.41 feet to a point;
- (8) North 81-23-00 West a distance of 194.34 feet to a point;
- (9) North 61-57-00 West a distance of 47.28 feet to a stone outcropping at west end of remains of old dam;
- (10) North 5-03-00 West a distance of 205.97 feet to a point;
- (11) North 61-26-15 East a distance of 106.00 feet to a point;
- (12) North 18-41-45 West a distance of 77.00 feet to a point;
- (13) South 73-42-15 West a distance of 222.00 feet to a point;
- (14) North 87-24-45 West a distance of 235.00 feet to a point;
- (15) North 73-50-45 West a distance of 152.00 feet to a point;
- (16) South 73-29-15 West a distance of 107.00 feet to a point;
- and (17) South 45-29-15 West a distance of 75.43 feet to a point located on the boundary of that property owned by Rosly Pfister (now or formerly) as described in that document recorded in Book 251 at Page 267, aforesaid Registry; running thence along the aforesaid boundary of that property owned by Rosly Pfister the following five (5) courses and distances: (1) North 68-41-00 West a distance of 54.36 feet to a P.K. nail (set) in fissure in large rock; (2) North 68-41-00 West a distance of 696.83 feet to a hole (set) in large stone; (3) North 11-00-00 West a distance of 530.00 feet to a 3/4-inch iron rod (set); (4) North 4-02-00 East a distance of 165.00 feet to a 3/4-inch iron rod (set);

and (5) North 17-00-00 West a distance of 202.81 feet to an axle (set), said axle being located at the point or place of BEGINNING and containing 95.339 acres (total) as shown on that certain survey entitled "Map Showing a Boundary Survey for Cuthbertson Road Joint Venture" dated November 2, 1990, revised November 30, 1990, and prepared by William A. Soiset, RLS-1415, reference to which survey is hereby made for a more particular description.

Note: Bearings oriented with a line described in Deed Book 430, P. 836, as indicated on the above-referenced survey.

**SECTION 2.(b)** This section applies only to the Town of Waxhaw and is effective when it becomes law. If Senate Bill 452, 2003 Regular Session, becomes law, the provisions of G.S. 160A-58.1(b)(2) as enacted by that act for application in Union County do not apply to the property annexed by this section, and instead the general law provisions of G.S. 160A-58.1(b)(2) will apply.

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

In the General Assembly read three times and ratified this the 26<sup>th</sup> day of June, 2003.

Became law on the date it was ratified.

### H.B. 787

### Session Law 2003-274

AN ACT TO ESTABLISH EQUITY IN REPORTING REQUIREMENTS BETWEEN FEDERAL POLITICAL COMMITTEES AND NORTH CAROLINA POLITICAL COMMITTEES.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 163-278.7A reads as rewritten:

"§ 163-278.7A. **Gifts from federal political committees.**

It shall be permissible for a federal political committee, as defined by the Federal Election Campaign Act and regulations adopted pursuant thereto, to make contributions to a North Carolina candidate or political committee registered under this Article with the State Board of Elections or a county board of elections, provided that the contributing ~~committee;~~ committee does all the following:

- (1) Is registered with the State Board of Elections consistent with the provisions of this ~~Article;~~ Article.
- (2) Complies with reporting requirements specified by the State Board of ~~Elections;~~ Elections. Those requirements shall not be more stringent than those required of North Carolina political committees registered under this Article, unless the federal political committee makes any contribution to a North Carolina candidate or political committee in any election in excess of four thousand dollars (\$4,000) for that election. 'Election' shall be as defined in G.S. 163-278.13(d).
- (3) Makes its contributions within the limits specified in this ~~Article;~~ and Article.
- (4) Appoints an assistant or deputy treasurer who is a resident of North Carolina and stipulates to the State Board of Elections that the designated in-State resident assistant or deputy treasurer shall be authorized to produce whatever records reflecting political activity in North Carolina the State Board of Elections deems necessary."

**SECTION 2.** This act is effective when the State Board of Elections develops the technological capacity to implement it, but no later than January 1, 2004.

In the General Assembly read three times and ratified this the 18<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 1:41 p.m. on the 26<sup>th</sup> day of June, 2003.

**H.B. 801****Session Law 2003-275**

AN ACT TO MODIFY THE STATE COMPETENCY TESTING PROGRAM TO ENSURE THAT HIGH SCHOOL STUDENTS WHO DO NOT PASS THE COMPETENCY TEST ARE GIVEN AN OPPORTUNITY TO TAKE AN ALTERNATIVE TEST.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 115C-174.11(b) reads as rewritten:

"(b) Competency Testing Program.

- (1) The State Board of Education shall adopt tests or other measurement devices which may be used to assure that graduates of the public high schools and graduates of nonpublic schools supervised by the State Board of Education pursuant to the provisions of Part 1 of Article 39 of this Chapter possess the skills and knowledge necessary to function independently and successfully in assuming the responsibilities of citizenship.
- (2) The tests shall be administered annually to all ninth grade students in the public schools. Students who fail to attain the required minimum standard for graduation in the ninth grade shall be given remedial instruction and additional opportunities to take the test up to and including the last month of the twelfth grade. Students who fail to pass parts of the test shall be retested on only those parts they fail. Students in the ninth grade who are enrolled in special education programs or who have been officially designated as eligible for participation in such programs may be excluded from the testing programs.
- (3) The State Board of Education ~~may develop~~ shall:
  - a. Adopt one or more nationally standardized tests or other nationally standardized equivalent measures that measure competencies in the verbal and quantitative areas; or
  - b. Develop and validate alternate means and standards for demonstrating minimum competence. These standards, which standards must be more as difficult than as the tests adopted pursuant to subdivision (1) of this subsection, subsection.

The State Board of Education shall adopt a policy to identify which students and under what circumstances students may pass one of these tests ~~may be passed by students~~ in lieu of the testing requirement of subdivision (2) of this subsection.

- (3a) Students with disabilities who fail to pass the competency test adopted pursuant to subdivision (2) of this subsection after two attempts shall

be given the opportunity to take and pass one of the alternate tests adopted pursuant to subdivision (3) of this subsection.

- (4) Repealed by Session Laws 1996, Second Extra Session, c. 18, s. 18.14."

**SECTION 2.** This act becomes effective July 1, 2003.

In the General Assembly read three times and ratified this the 18<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 1:42 p.m. on the 26<sup>th</sup> day of June, 2003.

**H.B. 785**

**Session Law 2003-276**

AN ACT TO REWRITE RULE 45 OF THE NORTH CAROLINA RULES OF CIVIL PROCEDURE.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 1A-1, Rule 45, reads as rewritten:

**"Rule 45. Subpoena.**

(a) ~~For attendance of witnesses; issuances; form.— A subpoena for the purpose of obtaining the testimony of a witness in a pending cause shall, except as hereinafter provided, be issued at the request of any party by the clerk of superior court for the county in which the hearing or trial is to be held. A subpoena shall be directed to the witness, shall state the name of the court and the title of the action, the name of the party at whose instance the witness is summoned, and shall command the person to whom it is directed to attend and give testimony at a time and place therein specified. The clerk shall issue a subpoena, or a subpoena for the production of documentary evidence, signed but otherwise in blank, to a party requesting it, who shall fill it in before service. A subpoena for a witness or witnesses need not be signed by the clerk, and is sufficient if signed by the party or his attorney. A subpoena for the production of documentary evidence need not be signed by the clerk, and is sufficient if signed by the attorney requesting the same.~~

(b) ~~Issuance by a judge.— Such subpoena may also be issued by any judge of the superior court, judge of the district court, or magistrate.~~

(c) ~~For production of documentary evidence.— A subpoena may also command the person to whom it is directed to produce the records, books, papers, documents, or tangible things designated therein. Where the subpoena commands any custodian of public records to appear for the sole purpose of producing certain records in his custody, the custodian subpoenaed may, in lieu of a personal appearance, tender to the court by registered mail certified copies of the records requested, together with an affidavit by the custodian as to the authentication of the record tendered or, if no such records are in his custody, an affidavit to that effect. Any original or certified copy or affidavit delivered under the provisions of this rule, unless otherwise objectionable, shall be admissible in any action or proceeding without further certification or authentication. Where the subpoena commands any custodian of hospital medical records (as defined in G.S. 8-44.1) to appear for the sole purpose of producing certain records in his custody, the custodian subpoenaed may, in lieu of a personal appearance, tender to the presiding judge or designee by registered mail or by personal delivery at no cost certified copies of the records requested, on or before the time specified in the subpoena, together with a copy of the subpoena and an affidavit by the custodian~~

~~testifying to the identity and authenticity of the records, that they are true and correct copies, and as appropriate, that the records were made and kept in the regular course of business at or near the time of the acts, conditions, or events recorded, and that they were made by persons having knowledge of the information set forth; or if no such records are in his custody, an affidavit to that effect. When the copies of medical records are personally delivered, a receipt shall be obtained from the person receiving the records. Any original or certified copy of medical records, or affidavit, delivered according to the provisions of this rule shall not be held inadmissible in any action or proceeding on the grounds that it lacks certification, identification, or authentication, and it shall be received as evidence if otherwise admissible. The copies of the medical records so tendered shall not be open to inspection or copy by any persons, except to the parties to the case or proceeding and their attorneys in depositions, until ordered published by the judge at the time of the hearing or trial. Nothing contained herein shall be construed to waive the physician-patient privilege or to require any privileged communications under law to be disclosed. The judge, upon motion to quash or modify made promptly and in any event at or before the time specified in the subpoena for compliance therewith, may~~

- ~~(1) Quash or modify the subpoena if it is unreasonable and oppressive and in such case may order the party in whose behalf the subpoena is issued to pay the person to whom the subpoena is directed part or all of his reasonable expenses including attorneys' fees or~~
- ~~(2) Grant the motion unless the party in whose behalf the subpoena is issued advances the reasonable cost of producing the records, books, papers, documents, or tangible things.~~
- ~~(d) Subpoena for taking depositions.—~~
  - ~~(1) Proof of service of a notice to take a deposition as provided in Rules 30(a) and 31(a) constitutes a sufficient authorization for the issuance by the clerk of the superior court for the county in which the deposition is to be taken of subpoenas for the persons named or described therein. The subpoena may command the person to whom it is directed to produce designated records, books, papers, documents, or tangible things which constitute or contain evidence relating to any of the matters within the scope of the examination permitted by Rule 26(b), but in that event the subpoena will be subject to the provisions of section (c) of Rule 26 and section (c) of this rule.~~

~~The person to whom the subpoena is directed may, within 10 days after the service thereof or on or before the time specified in the subpoena for compliance if such time is less than 10 days after service, serve upon the attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials except pursuant to an order of the court from which the subpoena was issued. The party serving the subpoena may, if objection has been made, move upon notice to the deponent for an order at any time before or during the taking of the deposition.~~

- ~~(2) Repealed by Session Laws 1975, c. 762, s. 3, effective January 1, 1976.~~

~~(e) Service.—All subpoenas may be served by the sheriff, by his deputy, by a coroner or by any other person not less than 18 years of age, who is not a party. Service of a subpoena for the production of documentary evidence may be made only by the delivery of a copy to the person named therein or by registered or certified mail, return receipt requested. Service of a subpoena for the attendance of a witness may be made by telephone communication with the person named therein only by an authorized server who shall be a sheriff, his designee who is not less than 18 years of age and not a party, or coroner, or by delivery of a copy to the person named therein or by registered or certified mail, return receipt requested, by any person authorized by this section to serve subpoenas. Personal service shall be proved by return of a sheriff, his deputy, or a coroner making service and by return under oath of any other person making service. Service by telephone communication shall be proved by return of the authorized process server, noting the method of service. Service by registered or certified mail shall be proved by filing the return receipt with the return.~~

~~(f) Punishment for failure to obey.—Failure by any person without adequate cause to obey a subpoena served upon him may be deemed a contempt of the court from which the subpoena issued. Failure by a party without adequate cause to obey a subpoena served upon him shall also subject such party to the sanctions provided in Rule 37(d).~~

(a) Form; Issuance. —

(1) Every subpoena shall state all of the following:

- a. The title of the action, the name of the court in which the action is pending, the number of the civil action, and the name of the party at whose instance the witness is summoned.
- b. A command to each person to whom it is directed to attend and give testimony or to produce and permit inspection and copying of designated records, books, papers, documents, or tangible things in the possession, custody, or control of that person therein specified.
- c. The protections of persons subject to subpoenas under subsection (c) of this rule.
- d. The requirements for responses to subpoenas under subsection (d) of this rule.

(2) A command to produce evidence may be joined with a command to appear at trial or hearing or at a deposition, or any subpoena may be issued separately.

(3) A subpoena shall issue from the court in which the action is pending.

(4) The clerk of court in which the action is pending shall issue a subpoena, signed but otherwise blank, to a party requesting it, who shall complete it before service. Any judge of the superior court, judge of the district court, magistrate, or attorney, as officer of the court, may also issue and sign a subpoena.

(b) Service. —

(1) Manner. — Any subpoena may be served by the sheriff, by the sheriff's deputy, by a coroner, or by any person who is not a party and is not less than 18 years of age. Service of a subpoena upon a person named therein shall be made by delivering a copy thereof to that person or by registered or certified mail, return receipt requested. Service of a subpoena for the attendance of a witness only may also be made by

- telephone communication with the person named therein only by a sheriff, the sheriff's designee who is not less than 18 years of age and is not a party, or a coroner.
- (2) Service of copy. – A copy of the subpoena served under subdivision (1) of this subsection shall also be served upon each party in the manner prescribed by Rule 5(b). This subdivision does not apply to subpoenas issued under G.S. 15A-801 or G.S. 15A-802.
- (c) Protection of Persons Subject to Subpoena. –
- (1) Avoid undue burden or expense. – A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing an undue burden or expense on a person subject to the subpoena. The court shall enforce this subdivision and impose upon the party or attorney in violation of this requirement an appropriate sanction that may include compensating the person unduly burdened for lost earnings and for reasonable attorney's fees.
- (2) For production of public records or hospital medical records. – Where the subpoena commands any custodian of public records or any custodian of hospital medical records, as defined in G.S. 8-44.1, to appear for the sole purpose of producing certain records in the custodian's custody, the custodian subpoenaed may, in lieu of personal appearance, tender to the court in which the action is pending by registered or certified mail or by personal delivery, on or before the time specified in the subpoena, certified copies of the records requested together with a copy of the subpoena and an affidavit by the custodian testifying that the copies are true and correct copies and that the records were made and kept in the regular course of business, or if no such records are in the custodian's custody, an affidavit to that effect. When the copies of records are personally delivered under this subdivision, a receipt shall be obtained from the person receiving the records. Any original or certified copy of records or an affidavit delivered according to the provisions of this subdivision, unless otherwise objectionable, shall be admissible in any action or proceeding without further certification or authentication. Copies of hospital medical records tendered under this subdivision shall not be open to inspection or copied by any person, except to the parties to the case or proceedings and their attorneys in depositions, until ordered published by the judge at the time of the hearing or trial. Nothing contained herein shall be construed to waive the physician-patient privilege or to require any privileged communication under law to be disclosed.
- (3) Written objection to subpoenas. – Subject to subsection (d) of this rule, a person commanded to appear at a deposition or to produce and permit the inspection and copying of records may, within 10 days after service of the subpoena or before the time specified for compliance if the time is less than 10 days after service, serve upon the party or the attorney designated in the subpoena written objection to the subpoena, setting forth the specific grounds for the objection. The written objection shall comply with the requirements of Rule 11. Each of the following grounds may be sufficient for objecting to a subpoena:



- a. The subpoena fails to allow reasonable time for compliance.
  - b. The subpoena requires disclosure of privileged or other protected matter and no exception or waiver applies to the privilege or protection.
  - c. The subpoena subjects a person to an undue burden.
  - d. The subpoena is otherwise unreasonable or oppressive.
  - e. The subpoena is procedurally defective.
- (4) Order of court required to override objection. – If objection is made under subdivision (3) of this subsection, the party serving the subpoena shall not be entitled to compel the subpoenaed person's appearance at a deposition or to inspect and copy materials to which an objection has been made except pursuant to an order of the court. If objection is made, the party serving the subpoena may, upon notice to the subpoenaed person, move at any time for an order to compel the subpoenaed person's appearance at the deposition or the production of the materials designated in the subpoena. The motion shall be filed in the court in the county in which the deposition or production of materials is to occur.
- (5) Motion to quash or modify subpoena. – A person commanded to appear at a trial, hearing, deposition, or to produce and permit the inspection and copying of records, books, papers, documents, or other tangible things, within 10 days after service of the subpoena or before the time specified for compliance if the time is less than 10 days after service, may file a motion to quash or modify the subpoena. The court shall quash or modify the subpoena if the subpoenaed person demonstrates the existence of any of the reasons set forth in subdivision (3) of this subsection. The motion shall be filed in the court in the county in which the trial, hearing, deposition, or production of materials is to occur.
- (6) Order to compel; expenses to comply with subpoena. – When a court enters an order compelling a deposition or the production of records, books, papers, documents, or other tangible things, the order shall protect any person who is not a party or an agent of a party from significant expense resulting from complying with the subpoena. The court may order that the person to whom the subpoena is addressed will be reasonably compensated for the cost of producing the records, books, papers, documents, or tangible things specified in the subpoena.
- (7) Trade secrets; confidential information. – When a subpoena requires disclosure of a trade secret or other confidential research, development, or commercial information, a court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or when the party on whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot otherwise be met without undue hardship, the court may order a person to make an appearance or produce the materials only on specified conditions stated in the order.

- (8) Order to quash; expenses. – When a court enters an order quashing or modifying the subpoena, the court may order the party on whose behalf the subpoena is issued to pay all or part of the subpoenaed person's reasonable expenses including attorney's fees.
- (d) Duties in Responding to Subpoenas. –
- (1) Form of response. – A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label the documents to correspond with the categories in the request.
- (2) Specificity of objection. – When information subject to a subpoena is withheld on the objection that it is subject to protection as trial preparation materials, or that it is otherwise privileged, the objection shall be made with specificity and shall be supported by a description of the nature of the communications, records, books, papers, documents, or other tangible things not produced, sufficient for the requesting party to contest the objection.
- (e) Contempt; Expenses to Force Compliance With Subpoena. –
- (1) Failure by any person without adequate excuse to obey a subpoena served upon the person may be deemed a contempt of court. Failure by any party without adequate cause to obey a subpoena served upon the party shall also subject the party to the sanctions provided in Rule 37(d).
- (2) The court may award costs and attorney's fees to the party who issued a subpoena if the court determines that a person objected to the subpoena or filed a motion to quash or modify the subpoena, and the objection or motion was unreasonable or was made for improper purposes such as unnecessary delay."

**SECTION 2.** G.S.15A-801 reads as rewritten:

**"§ 15A-801. Subpoena for witness.**

The presence of a person as a witness in a criminal proceeding may be obtained by subpoena, which must be issued and served in the manner provided in Rule 45 of the Rules of Civil Procedure, ~~G.S. 1A-1~~G.S.1A-1, except that subdivision (2) of subsection (b) of the rule does not apply to subpoenas issued under this section."

**SECTION 3.** G.S. 15A-802 reads as rewritten:

**"§ 15A-802. Subpoena for the production of documentary evidence.**

The production of records, books, papers, documents, or tangible things in a criminal proceeding may be obtained by subpoena which must be issued and served in the manner provided in Rule 45 of the Rules of Civil Procedure, ~~G.S. 1A-1~~G.S. 1A-1, except that subdivision (2) of subsection (b) of the rule does not apply to subpoenas issued under this section."

**SECTION 4.** This act becomes effective October 1, 2003, and applies to actions pending or filed on or after that date.

In the General Assembly read three times and ratified this the 18<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 1:44 p.m. on the 26<sup>th</sup> day of June, 2003.

S.B. 656

Session Law 2003-277

## AN ACT TO ESTABLISH THE INNOVATIVE EDUCATION INITIATIVES ACT.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Chapter 116C of the General Statutes is amended by adding the following new section to read:

**"§ 116C-4. First in America Innovative Education Initiatives Act.**

(a) The General Assembly strongly endorses the Governor's goal of making North Carolina's system of education first in America by 2010. With that as the goal, the Education Cabinet shall set as a priority cooperative efforts between secondary schools and institutions of higher education so as to reduce the high school dropout rate, increase high school and college graduation rates, decrease the need for remediation in institutions of higher education, and raise certificate, associate, and bachelor degree completion rates. The Cabinet shall identify and support efforts that achieve the following purposes:

- (1) Support cooperative innovative high school programs developed under Part 9 of Article 16 of Chapter 115C of the General Statutes.
- (2) Improve high school completion rates and reduce high school dropout rates.
- (3) Close the achievement gap.
- (4) Create redesigned middle schools or high schools.
- (5) Provide flexible, customized programs of learning for high school students who would benefit from accelerated, higher level coursework or early graduation.
- (6) Establish high quality alternative learning programs.
- (7) Establish a virtual high school.
- (8) Implement other innovative education initiatives designed to advance the State's system of education.

(b) The Education Cabinet shall identify federal, State, and local funds that may be used to support these initiatives. In addition, the Cabinet is strongly encouraged to pursue private funds that could be used to support these initiatives.

(c) The Cabinet shall report by January 15, 2004, and annually thereafter, to the Joint Legislative Education Oversight Committee on its activities under this section. The annual reports may include recommendations for statutory changes needed to support cooperative innovative initiatives, including programs approved under Part 9 of Article 16 of Chapter 115C of the General Statutes."

**SECTION 2.** Article 16 of Chapter 115C of the General Statutes is amended by adding the following new Part to read:

"Part 9. Cooperative Innovative High School Programs.

**"§ 115C-238.50. Purpose.**

(a) The purpose of this Part is to authorize boards of trustees of community colleges and local boards of education to jointly establish cooperative innovative programs in high schools and community colleges that will expand students' opportunities for educational success through high quality instructional programming. These cooperative innovative high school programs shall target:

- (1) High school students who are at risk of dropping out of school before attaining a high school diploma; or

- (2) High school students who would benefit from accelerated academic instruction.
- (b) All the cooperative innovative high school programs established under this Part shall:
- (1) Prepare students adequately for future learning in the workforce or in an institution of higher education.
  - (2) Expand students' educational opportunities within the public school system.
  - (3) Be centered on the core academic standards represented by the college preparatory or tech prep program of study as defined by the State Board of Education.
  - (4) Encourage the cooperative or shared use of resources, personnel, and facilities between public schools and community colleges.
  - (5) Integrate and emphasize both academic and technical skills necessary for students to be successful in a more demanding and changing workplace.
  - (6) Emphasize parental involvement and provide consistent counseling, advising, and parent conferencing so that parents and students can make responsible decisions regarding course taking and can track the students' academic progress and success.
  - (7) Be held accountable for meeting measurable student achievement results.
  - (8) Encourage the use of different and innovative teaching methods.
  - (9) Establish joint institutional responsibility and accountability for support of students and their success.
  - (10) Effectively utilize existing funding sources for high school, community college, and vocational programs and actively pursue new funding from other sources.
  - (11) Develop methods for early identification of potential participating students in the middle grades and through high school.
  - (12) Reduce the percentage of students needing remedial courses upon their initial entry from high school into a college or university.
- (c) Programs developed under this Part that target students who are at risk of dropping out of high school before attaining a high school diploma shall:
- (1) Provide these students with the opportunity to graduate from high school possessing the core academic skills needed for postsecondary education and high-skilled employment.
  - (2) Enable students to complete a technical or academic program in a field that is in high demand and has high wages.
  - (3) Set and achieve goals that significantly reduce dropout rates and raise high school and community college retention, certification, and degree completion rates.
  - (4) Enable students who complete these programs to pass employer exams, if applicable.
- (d) Cooperative innovative high school programs that offer accelerated learning programs shall:
- (1) Provide a flexible, customized program of instruction for students who would benefit from accelerated, higher level coursework or early graduation from high school.

- (2) Enable students to obtain a high school diploma in less than four years and begin or complete an associate degree program or to master a certificate or vocational program.
- (3) Offer a college preparatory academic core and in-depth studies in a career or technical field that will lead to advanced programs or employment opportunities in engineering, health sciences, or teaching.
- (e) Cooperative innovative high school programs may include the creation of a school within a school, a technical high school, or a high school or technical center located on the campus of a community college.
- (f) Students are eligible to attend these programs as early as ninth grade.

**"§ 115C-238.51. Application process.**

(a) A local board of education and a local board of trustees of a community college shall jointly apply to establish a cooperative innovative high school program under this Part.

(b) The application shall contain at least the following information:

- (1) A description of a program that implements the purposes in G.S. 115C-238.50.
- (2) A statement of how the program relates to the Economic Vision Plan adopted for the economic development region in which the program is to be located.
- (3) The facilities to be used by the program and the manner in which administrative services of the program are to be provided.
- (4) A description of student academic and vocational achievement goals and the method of demonstrating that students have attained the skills and knowledge specified for those goals.
- (5) A description of how the program will be operated, including budgeting, curriculum, transportation, and operating procedures.
- (6) The process to be followed by the program to ensure parental involvement.
- (7) The process by which students will be selected for and admitted to the program.
- (8) A description of the funds that will be used and a proposed budget for the program. This description shall identify how the average daily membership (ADM) and full-time equivalent (FTE) students are counted.
- (9) The qualifications required for individuals employed in the program.
- (10) The number of students to be served.
- (11) A description of how the program's effectiveness in meeting the purposes in G.S. 115C-238.50 will be measured.

(c) The application shall be submitted to the State Board of Education and the State Board of Community Colleges by November 1 of each year. The State Board of Education and the State Board of Community Colleges shall appoint a joint advisory committee to review the applications and to recommend to the State Boards those programs that meet the requirements of this Part and that achieve the purposes set out in G.S. 115C-238.50.

(d) The State Board of Education and the State Board of Community Colleges shall approve two cooperative innovative high school programs in each of the State's economic development regions. The State Boards may approve programs recommended by the joint advisory committee or may approve other programs that were not

recommended. The State Boards shall approve all applications by March 15 of each year. No application shall be approved unless the State Boards find that the application meets the requirements set out in this Part and that granting the application would achieve the purposes set out in G.S. 115C-238.50. Priority shall be given to applications that are most likely to further State education policies, to address the economic development needs of the economic development regions in which they are located, and to strengthen the educational programs offered in the local school administrative units in which they are located.

**"§ 115C-238.52. Participation by other education partners.**

(a) Any or all of the following education partners may participate in the development of a cooperative innovative program under this Part that is targeted to high school students who would benefit from accelerated academic instruction:

- (1) A constituent institution of The University of North Carolina.
- (2) A private college or university located in North Carolina.
- (3) A private business or organization.
- (4) The county board of commissioners in the county in which the program is located.

(b) Any or all of the education partners listed in subsection (a) of this section that participate shall:

- (1) Jointly apply with the local board of education and the local board of trustees of the community college to establish a cooperative innovative program under this Part.
- (2) Be identified in the application.
- (3) Sign the written agreement under G.S. 115C-238.53(b).

**"§ 115C-238.53. Program operation.**

(a) A program approved by the State shall be accountable to the local board of education.

(b) A program approved under this Part shall operate under the terms of a written agreement signed by the local board of education, local board of trustees of the community college, State Board of Education, and State Board of Community Colleges. The agreement shall incorporate the information provided in the application, as modified during the approval process, and any terms and conditions imposed on the program by the State Board of Education and the State Board of Community Colleges. The agreement may be for a term of no longer than five school years.

(c) A program may be operated in a facility owned or leased by the local board of education, the local board of trustees of the community college, or the education partner, if any.

(d) A program approved under this Part shall provide instruction each school year for at least 180 days during nine calendar months, shall comply with laws and policies relating to the education of students with disabilities, and shall comply with Article 27 of this Chapter.

(e) A program approved under this Part may use State, federal, and local funds allocated to the local school administrative unit, to the State Board of Community Colleges, and to the community college to implement the program. If there is an education partner and if it is a public body, the program may use State, federal, and local funds allocated to that body.

(f) Except as provided in this Part and pursuant to the terms of the agreement, a program is exempt from laws and rules applicable to a local board of education, a local school administrative unit, a community college, or a local board of trustees of a community college.

**"§ 115C-238.54. Funds for programs.**

(a) The Department of Public Instruction shall assign a school code for each program that is approved under this Part. All positions and other State and federal allotments that are generated for this program shall be assigned to that school code. Notwithstanding G.S. 115C-105.25, once funds are assigned to that school code, the local board of education may use these funds for the program and may transfer these funds between funding allotment categories.

(b) The local board of trustees of a community college may allocate State and federal funds for a program that is approved under this Part.

(c) An education partner under G.S. 115C-238.52 that is a public body may allocate State, federal, and local funds for a program that is approved under this Part.

(d) If not an education partner under G.S. 115C-238.52, a county board of commissioners in a county where a program is located may nevertheless appropriate funds to a program approved under this Part.

(e) The local board of education and the local board of trustees of the community college are strongly encouraged to seek funds from sources other than State, federal, and local appropriations. They are strongly encouraged to seek funds the Education Cabinet identifies or obtains under G.S. 116C-4.

**"§ 115C-238.55. Evaluation of programs.**

The State Board of Education and the State Board of Community Colleges shall evaluate the success of students in programs approved under this Part. Success shall be measured by high school retention rates, high school completion rates, high school dropout rates, certification and associate degree completion, admission to four-year institutions, postgraduation employment in career or study-related fields, and employer satisfaction of employees who participated in and graduated from the programs. Beginning October 15, 2005, and annually thereafter, the Boards shall jointly report to the Joint Legislative Education Oversight Committee on the evaluation of these programs. If, by October 15, 2006, the Boards determine any or all of these programs have been successful, they shall jointly develop a prototype plan for similar programs that could be expanded across the State. This plan shall be included in their report to the Joint Legislative Education Oversight Committee that is due by October 15, 2007.

**"§§ 115C-238.56 through 115C-238.59: Reserved for future codification purposes."**

**SECTION 3.** Local school administrative units and the State Board of Education shall identify, strengthen, and adopt policies and procedures that encourage students to remain in high school rather than to drop out and that encourage all students to pursue a rigorous academic course of study. As part of this process, the State Board and the local school administrative units are encouraged to eliminate or revise any policies or procedures that discourage some students from completing high school or that discourage any student from pursuing a rigorous academic course of study. No later than March 1, 2004, local school administrative units shall report to the State Board of Education the policies they have identified, strengthened, adopted, and eliminated under this section. No later than April 15, 2004, the State Board shall report to the Joint Legislative Education Oversight Committee on these policies as well as on the policies the Board has identified, strengthened, adopted, and eliminated under this section.

**SECTION 4.** Nothing in this act shall be construed to obligate the General Assembly to make appropriations to implement this act.

**SECTION 5.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 18<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 12:30 p.m. on the 27<sup>th</sup> day of June, 2003.

**H.B. 1120****Session Law 2003-278**

AN ACT TO PERMIT THE APPOINTMENT OF CERTAIN HIGH SCHOOL STUDENTS AS STUDENT ELECTION ASSISTANTS AND TO MAKE OTHER CHANGES TO THE ELECTION LAWS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Article 5 of Chapter 163 of the General Statutes is amended by adding a new section to read:

**"§ 163-42.1. Student election assistants.**

A student of at least 17 years of age at the time of any election or primary in which the student works shall be eligible to be appointed as a student election assistant. To be eligible a student must have all the following qualifications:

- (1) Be a United States citizen.
- (2) Be a resident of the county in which the student is appointed.
- (3) Be enrolled in a secondary educational institution, including a home school as defined in G.S. 115C-563(a), with an exemplary academic record as determined by that institution.
- (4) Be recommended by the principal or director of the secondary educational institution in which the student is enrolled.
- (5) Have the consent of a parent, legal custodian, or guardian.

The county board of elections may appoint student election assistants, following guidelines which shall be issued by the State Board of Elections. No more than two student election assistants shall be assigned to any voting place. Every student election assistant shall work under the direct supervision of the election judges. The student election assistants shall attend the same training as a precinct assistant, shall be sworn in the same manner as a precinct assistant, and shall be compensated in the same manner as precinct assistants. The county board of elections shall prescribe the duties of a student election assistant, following guidelines which shall be issued by the State Board of Elections. Under no circumstances may students ineligible to register to vote be appointed and act as precinct judges or observers in any election."

**SECTION 2.** G.S. 163-278.66(a) reads as rewritten:

"(a) Reporting by Noncertified Candidates and Independent Expenditure Entities. – Any noncertified candidate with a certified opponent shall report total income, expenses, and obligations to the Board by facsimile machine or electronically within 24 hours after the total amount of campaign expenditures or obligations made, or funds raised or borrowed, exceeds eighty percent (80%) of the trigger for rescue funds as defined in G.S. 163-278.62(18). Any entity making independent expenditures in excess of three thousand dollars (\$3,000) in support of or opposition to a certified ~~candidate~~ candidate or in support of a candidate opposing a certified candidate shall report the total funds received, spent, or obligated for those expenditures to the Board



by facsimile machine or electronically within 24 hours after the total amount of expenditures or obligations made, or funds raised or borrowed, for the purpose of making the independent expenditures, exceeds fifty percent (50%) of the trigger for rescue funds. After this 24-hour filing, the noncertified candidate or independent expenditure entity shall comply with an expedited reporting schedule by filing additional reports after receiving each additional amount in excess of one thousand dollars (\$1,000) or after making or obligating to make each additional expenditure(s) in excess of one thousand dollars (\$1,000). The schedule and forms for reports required by this subsection shall be made according to procedures developed by the Board."

**SECTION 3.** G.S. 163-46 reads as rewritten:

"§ **163-46. Compensation of precinct officials and assistants.**

The precinct chief judge shall be paid the state minimum wage for his services on the day of a primary, special or general election. Judges of election shall each be paid the state minimum wage for their services on the day of a primary, special or general election. Assistants, appointed pursuant to G.S. 163-42, shall each be paid the state minimum wage for their services on the day of a primary, special or general election. Ballot counters appointed pursuant to G.S. 163-43 shall be paid a minimum of five dollars (\$5.00) for their services on the day of a primary, general or special election. If an election official is being paid an hourly wage or daily fee on an election day and the official is performing additional election duties away from the assigned precinct voting place, the official shall not be entitled to any additional monies for those services, except for reimbursable expenses in performing the services.

If the county board of elections requests the presence of a chief judge or judge at the county canvass, the chief judge shall be paid the sum of twenty dollars (\$20.00) per day and judges shall be paid the sum of fifteen dollars (\$15.00) per day. If the county board of elections requests a precinct official, including chief judge or judge, to personally deliver official ballots or other official materials to the county board of elections, the precinct official shall be paid the sum of twenty dollars (\$20.00) per day and judges shall be paid the sum of fifteen dollars (\$15.00) per day.

The chairman of the county board of elections, along with the director of elections, shall conduct an instructional meeting prior to each primary and general election which shall be attended by each chief judge and judge of election, unless excused by the chairman, and such precinct election officials shall be paid the sum of fifteen dollars (\$15.00) for attending the instructional meetings required by this section.

In its discretion, the board of county commissioners of any county may provide funds with which the county board of elections may pay chief judges, judges, assistants, and ballot counters in addition to the amounts specified in this section. Observers shall be paid no compensation for their services.

A person appointed to serve as chief judge, or judge of election when a previously appointed chief judge or judge fails to appear at the voting place or leaves his post on the day of an election or primary shall be paid the same compensation as the chief judge or judge appointed prior to that date.

For the purpose of this section, the phrase "the State minimum wage," means the amount set by G.S. 95-25.3(a). For the purpose of this section, no other provision of Article 2A of Chapter 95 of the General Statutes shall apply."

**SECTION 4.** G.S. 163-112(b) reads as rewritten:

"(b) **Death of One of More Than Two Candidates within 10 Days after the Filing Period Closes.** – If at the close of the filing period more than two candidates have filed for a ~~single~~-single-seat office, and within 10 days after the filing period closes the board

of elections receives notice of a candidate's death, the board shall immediately open the filing period for that party contest, for three additional days in order for candidates to file for that office. The name of the deceased candidate shall not be printed on the ballot.

In the event a candidate's death occurs more than 10 days after the closing of the original filing period, the names of the remaining candidates shall be printed on the ballot. If the ballots have been printed at the time death occurs, the ballots shall not be reprinted and any votes cast for a deceased candidate shall not be counted or considered for any purpose. In the event the death of a candidate or candidates leaves only one candidate, then such candidate shall be certified as the party's nominee for that office."

**SECTION 5.** G.S. 163-278.6(18a) reads as rewritten:

"(18a) The term 'referendum' means any question, issue, or act referred to a vote of the people of the entire State by the General Assembly, a unit of local government, or by the people under any applicable local act and includes constitutional amendments and State bond issues. The term 'referendum' includes any type of municipal, county, or special district ~~referendum~~ referendum and any initiative or referendum authorized by a municipal charter or local act. A recall election shall not be considered a referendum within the meaning of this Article."

**SECTION 6.** G.S. 163-82.10(d) reads as rewritten:

"(d) Exception for Address of Certain Registered Voters. – Notwithstanding subsections (b) and (c) of this section, if a registered voter submits to the county board of elections a copy of a protective order without attachments, if any, issued to that person under G.S. 50B-3 or a lawful order of any court of competent jurisdiction restricting the access or contact of one or more persons with a registered voter or a current and valid Address Confidentiality Program authorization card issued pursuant to the provisions of Chapter 15C of the General Statutes, accompanied by a signed statement that the voter has good reason to believe that the physical safety of the voter or a member of the voter's family residing with the voter would be jeopardized if the voter's address were open to public inspection, that voter's address is a public record but shall be kept confidential as long as the protective order remains in effect or the voter remains a certified program participant in the Address Confidentiality Program. That voter's name, precinct, and the other data contained in that voter's registration record shall remain a public record. That voter's signed statement submitted under this subsection is a public record but shall be kept confidential as long as the protective order remains in effect or the voter remains a certified program participant in the Address Confidentiality Program. It is the responsibility of the voter to provide the county board with a copy of the valid protective order in effect or a current and valid Address Confidentiality Program authorization card issued pursuant to the provisions of Chapter 15C of the General Statutes. The voter's actual address shall be used for any election-related purpose by any board of elections. That voter's address shall be available for inspection by a law enforcement agency or by a person identified in a court order, if inspection of the address by that person is directed by that court order. It shall not be a violation of this section if the address of a voter who is participating in the Address Confidentiality Program is discovered by a member of the public in public records disclosed by a county board of elections prior to December 1, 2001. Addresses required to be kept confidential by this section shall not be made available to the jury commission under the provisions of G.S. 9-2."

**SECTION 7.** G.S. 163-221 reads as rewritten:

**"§ 163-221. Persons may not sign name of another to petition.**

- (a) No person may sign the name of another person ~~to~~to any of the following:
- (1) Any petition calling for an election or ~~referendum;~~referendum.
  - (2) Any petition under G.S. 163-96 for the formulation of a new political ~~party;~~party.
  - (3) Any petition under G.S. 163-107.1 requesting a person to be a ~~candidate;~~candidate.
  - (4) Any petition under G.S. 163-122 to have the name of an unaffiliated candidate placed on the general election ballot, or under G.S. 163-296 to have the name of an unaffiliated or nonpartisan candidate placed on the regular municipal election ~~ballot;~~ or ballot.
  - (5) Any petition under G.S. 163-213.5 to place a name on the ballot under the Presidential Preference Primary Act.
  - (6) Any petition under G.S. 163-123 to qualify as a write-in candidate.
- (b) Any name signed on a petition, in violation of this section, shall be void.
- (c) Any person who willfully violates this section is guilty of a Class 2 misdemeanor."

**SECTION 8.(a)** G.S. 163-182.13(a) reads as rewritten:

"(a) When State Board May Order New Election. – The State Board of Elections may order a new election, upon agreement of at least four of its members, in the case of any one or more of the following:

- (1) Ineligible voters sufficient in number to change the outcome of the election were allowed to vote in the election, and it is not possible from examination of the official ballots to determine how those ineligible voters voted and to correct the totals.
- (2) Eligible voters sufficient in number to change the outcome of the election were improperly prevented from voting.
- (3) Other irregularities affected a sufficient number of votes to change the outcome of the election.
- (4) Irregularities or improprieties occurred to such an extent ~~that, although it is not possible to determine whether those irregularities or improprieties affected the outcome of the election,~~ that they taint the results of the entire election and cast doubt on its fairness."

**SECTION 8.(b)** G.S. 163-182.14 reads as rewritten:

**"§ 163-182.14. Appeal of a final decision to superior court.**

A copy of the final decision of the State Board of Elections on an election protest shall be served on the parties personally or by certified mail. A decision to order a new election is considered a final decision for purposes of seeking review of the decision. An aggrieved party has the right to appeal the final decision to the Superior Court of Wake County within 10 days of the date of service.

After the decision by the State Board of Elections has been served on the parties, the certification of nomination or election or the results of the referendum shall issue pursuant to G.S. 163-182.15 unless an appealing party obtains a stay of the certification from the Superior Court of Wake County within 10 days after the date of service. The court shall not issue a stay of certification unless the petitioner shows the court that the petitioner has appealed the decision of the State Board of Elections, that the petitioner is an aggrieved party, and that the petitioner is likely to prevail, ~~and that the results of the election would be changed in the petitioner's favor. Mere irregularities in the election~~

~~which would not change the results of the election shall not be sufficient for the court to issue a stay of certification. prevail in the appeal."~~

**SECTION 9.(a)** G.S. 163-213.4 reads as rewritten:

**"§ 163-213.4. Nomination by State Board of Elections.**

The State Board of Elections shall convene in Raleigh on the first Tuesday in ~~February~~ March preceding the presidential preference primary election. At the meeting required by this section, the State Board of Elections shall nominate as presidential primary candidates all candidates affiliated with a political party, recognized pursuant to the provisions of Article 9 of Chapter 163 of the General Statutes, who have become eligible to receive payments from the Presidential Primary Matching Payment Account, as provided in section 9033 of the U.S. Internal Revenue Code of 1954, as amended. Immediately upon completion of these requirements, the Board shall release to the news media all such nominees selected. Provided, however, nothing shall prohibit the partial selection of nominees prior to the meeting required by this section, if all provisions herein have been complied with."

**SECTION 9.(b)** G.S. 163-213.5 reads as rewritten:

**"§ 163-213.5. Nomination by petition.**

Any person seeking the endorsement by the national political party for the office of President of the United States, or any group organized in this State on behalf of, and with the consent of, such person, may file with the State Board of Elections petitions signed by 10,000 persons who, at the time they signed are registered and qualified voters in this State and are affiliated, by such registration, with the same political party as the candidate for whom the petitions are filed. Such petitions shall be presented to the county board of elections 10 days before the filing deadline and shall be certified promptly by the chairman of the board of elections of the county in which the signatures were obtained and shall be filed by the petitioners with the State Board of Elections no later than 5:00 P.M. on the Monday prior to the date the State Board of Elections is required to meet as directed by G.S. 163-213.4.

The petitions must state the name of the candidate for nomination, along with a letter of approval signed by such candidate. Said petitions must also state the name and address of the chairman of any such group organized to circulate petitions authorized under this section. The requirement for signers of such petitions shall be the same as now required under provisions of G.S. 163-96(b)(1) and (2). The requirement of the respective chairmen of county boards of elections shall be the same as now required under the provisions of G.S. 163-96(b)(1) and (2) as they relate to the chairman of the county board of elections.

The State Board of Elections shall forthwith determine the sufficiency of petitions filed with it and shall immediately communicate its determination to the chairman of such group organized to circulate petitions. The form and style of petition shall be as prescribed by the State Board of Elections."

**SECTION 10.(a)** G.S. 163-182.5(b) reads as rewritten:

"(b) **Canvassing by County Board of Elections.** – The county board of elections shall meet at 11:00 A.M. on the ~~third day (Sunday excepted)~~ seventh day after every election to complete the canvass of votes cast and to authenticate the count in every ballot item in the county by determining that the votes have been counted and tabulated correctly. If, despite due diligence by election officials, the initial counting of all the votes has not been completed by that time, the county board may hold the canvass meeting a reasonable time thereafter. The canvass meeting shall be at the county board of elections office, unless the county board, by unanimous vote of all its members,

designates another site within the county. The county board shall examine the returns from precincts, from absentee official ballots, and from provisional official ballots and shall conduct the canvass."

**SECTION 10.(b)** G.S. 163-182.7(b) reads as rewritten:

"(b) **Mandatory Recounts for Ballot Items Within the Jurisdiction of the County Board of Elections.** – In a ballot item within the jurisdiction of the county board of elections, a candidate shall have the right to demand a recount of the votes if the difference between the votes for that candidate and the votes for a prevailing candidate is not more than one percent (1%) of the total votes cast in the ballot item, or in the case of a multiseat ballot item not more than one percent (1%) of the votes cast for those two candidates. The demand for a recount must be made in writing and must be received by the county board of elections by ~~noon on the fourth~~ 5:00 P.M. on the first day after the canvass. The recount shall be conducted under the supervision of the county board of elections."

**SECTION 10.(c)** G.S. 163-182.7(c) reads as rewritten:

"(c) **Mandatory Recounts for Ballot Items Within the Jurisdiction of the State Board of Elections.** – In a ballot item within the jurisdiction of the State Board of Elections, a candidate shall have the right to demand a recount of the votes if the difference between the votes for that candidate and the votes for a prevailing candidate are not more than the following:

- (1) For a nonstatewide ballot item, one percent (1%) of the total votes cast in the ballot item, or in the case of a multiseat ballot item, one percent (1%) of the votes cast for those two candidates.
- (2) For a statewide ballot item, one-half of one percent (0.5%) of the votes cast in the ballot item, or in the case of a multiseat ballot item, one-half of one percent (0.5%) of the votes cast for those two candidates, or 10,000 votes, whichever is less.

The demand for a recount must be in writing and must be received by the State Board of Elections by noon on the second ~~Wednesday~~ Thursday after the election. If on that ~~Wednesday~~ Thursday the available returns show a candidate not entitled to a mandatory recount, but the Executive Director determines subsequently that the margin is within the threshold set out in this subsection, the Executive Director shall notify the eligible candidate immediately and that candidate shall be entitled to a recount if that candidate so demands within 48 hours of notice. The recount shall be conducted under the supervision of the State Board of Elections."

**SECTION 10.(d)** G.S. 163-111(c) reads as rewritten:

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

- (1) **(Effective with respect to primaries and elections held on or after January 1, 2004)** A candidate who is apparently entitled to demand a second primary, according to the unofficial results, for one of the offices listed below, and desiring to do so, shall file a request for a second primary in writing ~~or by telegram~~ with the Executive Director of the State Board of Elections no later than 12:00 noon on the ~~seventh~~ ninth day (including Saturdays and Sundays) following the date on which the primary was conducted, and such request shall be subject to the certification of the official results by the State Board of Elections. If the vote certification by the State Board of Elections determines that a candidate who was not originally thought to be eligible to call for a second primary is in fact eligible to call for a second primary, the

Executive Director of the State Board of Elections shall immediately notify such candidate and permit him to exercise any options available to him within a 48-hour period following the notification:

Governor,  
 Lieutenant Governor,  
 All State executive officers,  
 District Attorneys of the General Court of Justice,  
 United States Senators,  
 Members of the United States House of Representatives,  
 State Senators in multi-county senatorial districts, and  
 Members of the State House of Representatives in multi-county representative districts.

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

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

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

**SECTION 10.(e)** G.S. 163-291(5) reads as rewritten:

- "(5) The canvass of the primary and second primary shall be held on the ~~third-seventh~~ day (~~Sunday excepted~~) following the primary or second primary. In accepting the filing of complaints concerning the conduct of an election, a board of elections shall be subject to the rules concerning Sundays and holidays set forth in G.S. 103-5."

**SECTION 10.(f)** G.S. 163-291(6) reads as rewritten:

- "(6) Candidates having the right to demand a second primary shall do so not later than 12:00 noon on the ~~Monday~~Thursday following the canvass of the first primary."

**SECTION 10.(g)** G.S. 163-293(c) reads as rewritten:

"(c) The canvass of the first election shall be held on the ~~third-seventh~~ day (~~Sunday excepted~~) after the election. A candidate entitled to a runoff election may do so by filing a written request for a runoff election with the board of elections no later than 12:00 noon on the ~~Monday~~Thursday after the result of the first election has been officially declared. In accepting the filing of complaints concerning the conduct of an election, a board of elections shall be subject to the rules concerning Sundays and holidays set forth in G.S. 103-5."

**SECTION 10.(h)** G.S. 163-294(b) reads as rewritten:

"(b) In the primary, the two candidates for a single office receiving the highest number of votes, and those candidates for a group of offices receiving the highest number of votes, equal to twice the number of positions to be filled, shall be declared nominated. In both the primary and election, a voter should not mark more names for any office than there are positions to be filled by election. If two or more candidates receiving the highest number of votes each received the same number of votes, the board of elections shall determine their relative ranking by lot, and shall declare the nominees accordingly. The canvass of the primary shall be held on the ~~third~~ seventh day (~~Sunday excepted~~) following the primary. In accepting the filing of complaints concerning the conduct of an election, a board of elections shall be subject to the rules concerning Sundays and holidays set forth in G.S. 103-5."

**SECTION 10.(i)** G.S. 163-300 reads as rewritten:**"§ 163-300. Disposition of duplicate abstracts in municipal elections.**

Within ~~five~~ nine days after a primary or election is held in any municipality, the chairman of the county or municipal board of elections shall mail to the chairman of the State Board of Elections, the duplicate abstract prepared in accordance with G.S. 163-182.6. One copy shall be retained by the county or municipal board of elections as a permanent record and one copy shall be filed with the city clerk."

**SECTION 10.(j)** G.S. 163-322(b) reads as rewritten:

"(b) Determination of Nominees. – In the primary, the two candidates for a single office receiving the highest number of votes, and those candidates for a group of offices receiving the highest number of votes, equal to twice the number of positions to be filled, shall be declared nominated. If two or more candidates receiving the highest number of votes each receive the same number of votes, the State Board of Elections shall determine their relative ranking by lot, and shall declare the nominees accordingly. The canvass of the primary shall be held on the same date as the primary canvass fixed under G.S. ~~163-188.163-182.5~~. The canvass shall be conducted in accordance with Article ~~16~~ 15A of this Chapter."

**SECTION 10.(k)** G.S. 163-182.15 reads as rewritten:**"§ 163-182.15. Certificate of nomination or election, or certificate of the results of a referendum.**

(a) Issued by County Board of Elections. – In ballot items within the jurisdiction of the county board of elections, the county board shall issue a certificate of nomination or election, or a certificate of the results of the referendum, as appropriate. The certificate shall be issued by the county board ~~five~~ six days after the completion of the canvass pursuant to G.S. 163-182.5, unless there is an election protest pending. If there is an election protest, the certificate of nomination or election or the certificate of the result of the referendum shall be issued in one of the following ways, as appropriate:

- (1) The certificate shall be issued five days after the protest is dismissed or denied by the county board of elections, unless that decision has been appealed to the State Board of Elections.
- (2) The certificate shall be issued 10 days after the final decision of the State Board, unless the State Board has ordered a new election or the issuance of the certificate is stayed by the Superior Court of Wake County pursuant to G.S. 163-182.14.
- (3) If the decision of the State Board has been appealed to the Superior Court of Wake County and the court has stayed the certification, the certificate shall be issued five days after the entry of a final order in

the case in the Superior Court of Wake County, unless that court or an appellate court orders otherwise.

(b) Issued by State Board of Elections. – In ballot items within the jurisdiction of the State Board of Elections, the State Board of Elections shall issue a certificate of nomination or election, or a certificate of the results of the referendum, as appropriate. The certificate shall be issued by the State Board ~~five~~ six days after the completion of the canvass pursuant to G.S. 163-182.5, unless there is an election protest pending. If there is an election protest, the certificate of nomination or election or the certificate of the result of the referendum shall be issued in one of the following ways, as appropriate:

- (1) The certificate shall be issued 10 days after the final decision of the State Board on the election protest, unless the State Board has ordered a new election or the issuance of the certificate is stayed by the Superior Court of Wake County pursuant to G.S. 163-14.
- (2) If the decision of the State Board has been appealed to the Superior Court of Wake County and the court has stayed the certification, the certificate shall be issued five days after the entry of a final order in the case in the Superior Court of Wake County, unless that court or an appellate court orders otherwise.

(c) Copy to Secretary of State. – The State Board of Elections shall provide to the Secretary of State a copy of each certificate of nomination or election, or certificate of the results of a referendum, issued by it. The Secretary shall keep the certificates in a form readily accessible and useful to the public."

**SECTION 11.** G.S. 163-227.2(a) reads as rewritten:

"(a) ~~Except as provided in subsection (a1) of this section, a person expecting to be absent from the county in which that person is registered during the entire period that the polls are open on the day of an election in which absentee ballots are authorized or is eligible under G.S. 163-226(a)(2), 163-226(a)(3a), or 163-226(a)(4) Any voter eligible to vote by absentee ballot under G.S. 163-226~~ may request an application for absentee ballots, complete the application, and vote under the provisions of this section."

**SECTION 12.** Sections 1 and 10 of this act become effective January 1, 2004. The remainder of this act becomes effective when this act becomes law.

In the General Assembly read three times and ratified this the 26<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 4:18 p.m. on the 27<sup>th</sup> day of June, 2003.

## S.B. 475

## Session Law 2003-279

### AN ACT TO ANNEX CERTAIN DESCRIBED PROPERTIES TO THE TOWN OF DALLAS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** The corporate limits of the Town of Dallas are extended to include the following described area:

Located, lying in Dallas Township, Gaston County, N.C. on the north side of the Dallas-Cherryville HWY and more particularly described as follows:



Beginning at an old iron, said iron being the NE corner of the Wilbur Rankin property as described in deed book 2283 p.847, also the southern most corner of the Ronald Dixon property as described in deed book 1468 p.858, said corner also being a corner of the existing city limit line for the Town of Dallas, and running thence with the existing Town of Dallas city limit line and Wilbur Rankin's easterly property line: South 01 degrees 34 minutes 18 seconds West for a distance of 745.58 feet to a 0.5" iron pipe;

THENCE continuing with the aforesaid city limit line South 01 degrees 34 minutes 18 seconds West for a distance of 264.68 feet to an EIP on the southern margin of N.C. HWY 279; THENCE leaving the aforesaid city limit line and running with the southern R/W of HWY 279 North 87 degrees 26 minutes 31 seconds West for a distance of 924.97 feet to a R/W Monument; THENCE with the R/W North 87 degrees 09 minutes 54 seconds West for a distance of 454.38 feet to a point; THENCE along a curve to the right having a radius of 1726.80 feet and an arc length of 338.77 feet, being subtended by a chord of North 81 degrees 32 minutes 41 seconds West for a distance of 338.23 feet to a point; THENCE North 75 degrees 55 minutes 28 seconds West for a distance of 143.84 feet to a point; THENCE leaving the southern r/w of N.C HWY 279 North 11 degrees 13 minutes 53 seconds East for a distance of 105.03 feet to a RBR on the northern r/w of HWY 279 common corner of Mary C. Buckner as recorded in DB 3111 Pg. 592 and Eden Glen Sub. As recorded in PB 57 Pg. 48; THENCE with the common line of Buckner and Eden Glen subdivision North 11 degrees 13 minutes 53 seconds East for a distance of 465.69 feet to a stone;

THENCE continuing with the common line of Buckner and Eden Glen subdivision South 86 degrees 13 minutes 05 seconds East for a distance of 151.67 feet to an EIP; THENCE continuing with Eden Glen subdivision and the common line of Marilyn Finger South 85 degrees 59 minutes 14 seconds East for a distance of 15.85 feet to an EIP, also a corner of Eric Bumgardner as recorded in DB 2568 Pg. 286 Tract I; THENCE with the common line of Eden Glen subdivision and Eric Bumgardner North 03 degrees 11 minutes 02 seconds East for a distance of 1335.87 feet to an EIP; THENCE continuing with Eden Glen subdivision and the common line of Robert Finger North 05 degrees 37 minutes 41 seconds West for a distance of 475.23 feet to an EIP, also a corner of Marilyn Finger as recorded in DB 1050 Pg. 750; THENCE continuing with the common line of Eden Glen subdivision and Marilyn Finger South 83 degrees 03 minutes 27 seconds West for a distance of 384.55 feet to an EIP, also a corner in the line of William Summey as recorded in DB 1946 Pg. 708; THENCE continuing with the common line of Eden Glen subdivision and William Summey South 05 degrees 34 minutes 51 seconds West for a distance of 1365.30 feet to an EIP; THENCE continuing with the common line of Eden Glen subdivision and William Summey South 06 degrees 47 minutes 47 seconds East for a distance of 265.43 feet to an EIP, also a corner in the line of Michael Pitsikoulis as recorded in DB 2733 Pg. 722; THENCE continuing with the common line of Eden Glen subdivision, Michael Pitsikoulis, and Margaret Ratchford DB 514 Pg. 460 South 65 degrees 55 minutes 27 seconds East for a distance of 190.00 feet to a one-inch iron pipe, a common corner of Eden Glen subdivision and Margaret Ratchford; THENCE continuing with the common line of Eden Glen subdivision and Margaret Ratchford South 10 degrees 05 minutes 24 seconds West for a distance of 489.26 feet to an IPS, also a corner in the line of the northern right of way line of NC HWY 279; THENCE continuing with the common line of Eden Glen subdivision and the northern right of way line of NC HWY 279 South 77 degrees 31 minutes 06 seconds East for a distance of 112.55 feet to an EIP, also a corner of Mary Buckner; THENCE South 11 degrees 13 minutes 53 seconds West for a distance of

105.03 feet to a point on the southern line of HWY 279; THENCE continuing with the southern line of HWY 279 North 75 degrees 55 minutes 28 seconds West for a distance of 759.91 feet to an EIP; THENCE continuing with the southern R/W line of HWY 279 North 75 degrees 56 minutes 38 seconds West for a distance of 499.72 feet to an EIP; THENCE continuing with the southern R/W line of HWY 279 North 75 degrees 52 minutes 35 seconds West for a distance of 200.03 feet to an EIP;

THENCE continuing with the southern R/W line of HWY 279 North 75 degrees 52 minutes 35 seconds West for a distance of 209.37 feet to a point; THENCE leaving the southern R/W line of HWY 279 North 10 degrees 55 minutes 38 seconds East for a distance of 100.09 feet to an EIP, also the corner of Summey-Knoll subdivision Phase 7 as recorded in PB 65 Pg. 73 and William Summey as recorded in DB 1946 Pg. 708; THENCE continuing with the common line of Summey-Knoll subdivision Phase 7 and William Summey North 14 degrees 04 minutes 39 seconds East for a distance of 71.77 feet to an EIP; THENCE continuing with the common line of Summey-Knoll subdivision Phase 7 and William Summey along a curve to the right having a radius of 225.00 feet and an arc length of 93.84 feet, being subtended by a chord of North 26 degrees 01 minutes 31 seconds East for a distance of 93.16 feet to an EIP; THENCE continuing with the common line of Summey-Knoll subdivision Phase 7 and William Summey North 37 degrees 58 minutes 23 seconds East for a distance of 64.23 feet to an EIP; THENCE continuing with the common line of Summey-Knoll subdivision Phase 7 and William Summey along a curve to the left having a radius of 300.00 feet and an arc length of 193.01 feet, being subtended by a chord of North 19 degrees 32 minutes 30 seconds East for a distance of 189.70 feet to an EIP, also a corner of Summey-Knoll subdivision Phase 7 and William Summey; THENCE continuing with the common line of Summey-Knoll subdivision Phase 7 and William Summey North 88 degrees 17 minutes 23 seconds East for a distance of 135.33 feet to an EIP, also a corner of Summey-Knoll subdivision Phase 7 and William Summey;

THENCE continuing with the common line of Summey-Knoll subdivision Phase 7 and William Summey North 01 degrees 42 minutes 08 seconds West for a distance of 205.55 feet to an EIP, also a corner of Summey-Knoll subdivision Phase 7 and William Summey; THENCE continuing with the common line of Summey-Knoll subdivision Phase 7 and William Summey South 82 degrees 06 minutes 11 seconds East for a distance of 172.42 feet to an EIP, also a corner of Summey-Knoll subdivision Phase 7 and William Summey; THENCE continuing with the common line of Summey-Knoll subdivision Phase 7 and William Summey North 16 degrees 20 minutes 50 seconds East for a distance of 350.78 feet to an EIP, also a corner of Summey-Knoll subdivision Phase 7 and William Summey; THENCE continuing with the common line of Summey-Knoll subdivision Phase 7 and William Summey North 66 degrees 16 minutes 11 seconds West for a distance of 83.27 feet to an EIP; THENCE continuing with the common line of Summey-Knoll subdivision Phase 7 and William Summey North 74 degrees 27 minutes 45 seconds West for a distance of 291.70 feet to an EIP, also a corner of Summey-Knoll subdivision Phase 7, William Summey, and Summey-Knoll subdivision Phase 6 as recorded in PB 61 Pg. 75;

THENCE continuing with the common line of Summey-Knoll subdivision Phase 6 and William Summey North 07 degrees 27 minutes 55 seconds East for a distance of 150.00 feet to an EIP, also a corner of Summey-Knoll subdivision Phase 6 and William Summey; THENCE continuing with the common line of Summey-Knoll subdivision Phase 6 and William Summey North 82 degrees 32 minutes 05 seconds West for a distance of 65.00 feet to an EIP, also a corner of Summey-Knoll subdivision Phase 6

and William Summey; THENCE continuing with the common line of Summey-Knoll subdivision Phase 6 and William Summey North 07 degrees 27 minutes 55 seconds East for a distance of 50.00 feet to an EIP, also a corner of Summey-Knoll subdivision Phase 6 and William Summey; THENCE continuing with the common line of Summey-Knoll subdivision Phase 6 and William Summey South 82 degrees 32 minutes 05 seconds East for a distance of 102.00 feet to an EIP, also a corner of Summey-Knoll subdivision Phase 6 and William Summey; THENCE continuing with the common line of Summey-Knoll subdivision Phase 6 and William Summey North 07 degrees 27 minutes 55 seconds East for a distance of 125.00 feet to an EIP, also a corner of Summey-Knoll subdivision Phase 6 and William Summey; continuing with the common line of Summey-Knoll subdivision Phase 6 and William Summey North 82 degrees 32 minutes 05 seconds West for a distance of 32.00 feet to an EIP, also a corner of Summey-Knoll subdivision Phase 6 and William Summey; THENCE continuing with the common line of Summey-Knoll subdivision Phase 6 and William Summey North 17 degrees 53 minutes 30 seconds West for a distance of 129.88 feet to a Point of Tangency, also a corner of Summey-Knoll subdivision Phase 6 and William Summey; THENCE continuing with the common line of Summey-Knoll subdivision Phase 6 and William Summey along a curve to the left having a radius of 225.00 feet and an arc length of 73.96 feet, being subtended by a chord of South 73 degrees 05 minutes 05 seconds West for a distance of 73.63 feet to a rebar; THENCE continuing with the common line of Summey-Knoll subdivision Phase 6 and William Summey South 63 degrees 40 minutes 04 seconds West for a distance of 22.61 feet to a rebar, also a corner of Summey-Knoll subdivision Phase 6 and William Summey; THENCE continuing with the common line of Summey-Knoll subdivision Phase 6 and William Summey North 26 degrees 19 minutes 56 seconds West for a distance of 50.00 feet to a rebar, also a corner of Summey-Knoll subdivision Phase 6 and William Summey;

THENCE continuing with the common line of Summey-Knoll subdivision Phase 6 and William Summey North 63 degrees 40 minutes 04 seconds East for a distance of 22.61 feet to a rebar; THENCE continuing with the common line of Summey-Knoll subdivision Phase 6 and William Summey along a curve to the right having a radius of 275.00 feet and an arc length of 89.09 feet, being subtended by a chord of North 72 degrees 56 minutes 59 seconds East for a distance of 88.71 feet to a rebar, also a corner of Summey-Knoll subdivision Phase 6 and William Summey; THENCE continuing with the common line of Summey-Knoll subdivision Phase 6 and William Summey North 13 degrees 34 minutes 48 seconds West for a distance of 96.37 feet to an EIP; THENCE continuing with the common line of Summey-Knoll subdivision Phase 6 and William Summey North 00 degrees 06 minutes 35 seconds East for a distance of 196.68 feet to a rebar, also a corner of Summey-Knoll subdivision Phase 6 and William Summey; THENCE continuing with the common line of Summey-Knoll subdivision Phase 6 and William Summey North 32 degrees 32 minutes 16 seconds East for a distance of 133.03 feet to a rebar, also a corner of Summey-Knoll subdivision Phase 6 and William Summey; THENCE continuing with the common line of Summey-Knoll subdivision Phase 6 and William Summey North 56 degrees 38 minutes 08 seconds West for a distance of 258.03 feet to a Point of Tangency; THENCE continuing with the common line of Summey-Knoll subdivision Phase 6 and William Summey along a curve to the right having a radius of 225.00 feet and an arc length of 116.13 feet, being subtended by a chord of North 41 degrees 50 minutes 58 seconds West for a distance of 114.85 feet to a Point of Curvature; THENCE continuing with the common line of Summey-Knoll subdivision Phase 6 and William Summey North 27 degrees 03 minutes

55 seconds West for a distance of 75.00 feet to a rebar, also a corner of Summey-Knoll subdivision Phase 6 and William Summey; THENCE continuing with the common line of Summey-Knoll subdivision Phase 6 and William Summey South 62 degrees 56 minutes 12 seconds West for a distance of 50.00 feet to a rebar, also a corner of Summey-Knoll subdivision Phase 6 and William Summey; THENCE continuing with the common line of Summey-Knoll subdivision Phase 6 and William Summey North 27 degrees 03 minutes 48 seconds West for a distance of 13.16 feet to a Point of Tangency, also a corner of Summey-Knoll subdivision Phase 6 and William Summey;

THENCE continuing with the common line of Summey-Knoll subdivision Phase 6 and William Summey along a curve to the left having a radius of 250.00 feet and an arc length of 99.99 feet, being subtended by a chord of North 38 degrees 31 minutes 24 seconds West for a distance of 99.32 feet to a Point of Curvature; THENCE continuing with the common line of Summey-Knoll subdivision Phase 6 and William Summey North 49 degrees 58 minutes 53 seconds West for a distance of 44.24 feet to an IPS, also a corner of Summey-Knoll subdivision Phase 6, William Summey, Ralph Summey as recorded in DB 59 Pg. 63, and Summey-Knoll subdivision Phase 4 as recorded in PB 59 Pg. 63; THENCE continuing with the common line of Summey-Knoll subdivision Phase 6 and Summey-Knoll subdivision Phase 4 South 12 degrees 02 minutes 42 seconds East for a distance of 7.71 feet to a rebar, also a corner of Summey-Knoll subdivision Phase 6 and Summey-Knoll Phase 4; THENCE continuing with the common line of Summey-Knoll subdivision Phase 6, Summey-Knoll subdivision Phase 4, Summey-Knoll subdivision Phase 5 PB 63 Pg. 74, and Summey-Knoll subdivision Phase 3 as recorded in PB 58 Pg. 40 South 46 degrees 28 minutes 39 seconds West for a distance of 497.61 feet to a rebar, also a corner of Summey-Knoll subdivision Phase 5 and Summey-Knoll subdivision Phase 3; THENCE continuing with the common line of Summey-Knoll subdivision Phase 5 and Summey-Knoll subdivision Phase 3 South 73 degrees 40 minutes 22 seconds West for a distance of 53.35 feet to a rebar, also a corner of Summey-Knoll subdivision Phase 5 and Summey-Knoll subdivision Phase 3; THENCE continuing with the common line of Summey-Knoll subdivision Phase 5 and Summey-Knoll subdivision Phase 3 South 16 degrees 19 minutes 33 seconds East for a distance of 270.88 feet to a rebar, also a corner of Summey-Knoll subdivision Phase 5 and Summey-Knoll subdivision Phase 3; THENCE continuing with the common line of Summey-Knoll subdivision Phase 5, Summey-Knoll subdivision Phase 3, and Summey-Knoll Phase subdivision 1 as recorded in PB 53 Pg. 89 South 11 degrees 43 minutes 58 seconds East for a distance of 378.24 feet to a rebar, also a corner of Summey-Knoll subdivision Phase 5 and Summey-Knoll subdivision Phase 1; THENCE continuing with the common line of Summey-Knoll subdivision Phase 5 and Summey-Knoll subdivision Phase 1 South 14 degrees 22 minutes 33 seconds West for a distance of 670.00 feet to a rebar, also a corner of Summey-Knoll subdivision Phase 5, Summey-Knoll subdivision Phase 1, and Bruce Guson as recorded in DB 2512 Pg. 12; THENCE continuing with the common line of Summey-Knoll subdivision Phase 5 and Bruce Guson South 75 degrees 31 minutes 59 seconds East for a distance of 46.37 feet to a rebar, also a corner of Summey-Knoll subdivision Phase 5, Bruce Guson, and Elizabeth Barker as recorded in DB 3479 Pg. 995; THENCE continuing with the common line of Summey-Knoll subdivision Phase 5 and Elizabeth Barker North 12 degrees 00 minutes 11 seconds East for a distance of 19.61 feet to a rebar, also a corner of Summey-Knoll subdivision Phase 5 and Elizabeth Barker; THENCE continuing with the common line of Summey-Knoll subdivision Phase 5 and Elizabeth Barker South 70 degrees 46 minutes 44 seconds East for a distance of 409.27 feet to a rebar, also a corner of Elizabeth Barker; THENCE

continuing with the common line of Elizabeth Barker North 02 degrees 51 minutes 04 seconds East for a distance of 216.07 feet to a rebar, also a corner of Elizabeth Barker and Summey-Knoll subdivision Phase 7; THENCE continuing with the common line of Elizabeth Barker and Summey-Knoll subdivision Phase 7 South 43 degrees 23 minutes 35 seconds East for a distance of 223.79 feet to a rebar, also a corner of Elizabeth Barker, Summey-Knoll subdivision Phase 7, and Ralph Summey as recorded in DB 2590 Pg. 580; THENCE continuing with the common line of Summey-Knoll subdivision Phase 7 and Ralph Summey South 01 degrees 44 minutes 14 seconds East for a distance of 184.92 feet to a rebar, also a corner of Summey-Knoll subdivision Phase 7 and Ralph Summey; THENCE continuing with the common line of Summey-Knoll subdivision Phase 7 and Ralph Summey South 16 degrees 21 minutes 33 seconds West for a distance of 174.76 feet to a rebar also a corner of Summey-Knoll subdivision Phase 7 and Ralph Summey; THENCE continuing with the common line of Summey-Knoll subdivision Phase 7 and Ralph Summey South 08 degrees 48 minutes 38 seconds West for a distance of 205.02 feet to a rebar, also a corner of Summey-Knoll subdivision Phase 7, Ralph Summey, and the northern right of way line of NC HWY 279, Said iron also being South 86 degrees 32 minutes 42 seconds East at a distance of 360.77 feet from NCGS Marker "Downey" coordinates North 577,608.2024, East 1,341.239 NAD 83; THENCE continuing with the common line of Summey-Knoll subdivision Phase 7 and the northern right of way line of NC HWY 279 South 75 degrees 48 minutes 56 seconds East for a distance of 123.20 feet to an EIP, also a corner of Summey-Knoll subdivision Phase 7, the northern right of way line of NC HWY 279, and William Summey; THENCE South 10 degrees 55 minutes 38 seconds West for a distance of 100.09 feet to a point on the southern line of HWY 279; THENCE continuing with the southern line of HWY 279 North 75 degrees 54 minutes 35 seconds West for a distance of 1210.18 feet to a rebar; THENCE North 13 degrees 12 minutes 06 seconds East for a distance of 100.01 feet to a rebar (Camp Sertoma), also a corner of Gaston Skills as recorded in DB 906 Pg. 593 and Summey-Knoll subdivision Phase 2 as recorded in DB 57 Pg. 66; THENCE continuing with the common line of Summey-Knoll subdivision Phase 2, Gaston Skills, and Summey-Knoll subdivision Phase 1 North 13 degrees 12 minutes 06 seconds East for a distance of 1172.70 feet to an ECM, also a corner of Gaston Skills, Summey-Knoll subdivision Phase 1, and Gaston County as recorded in DB 986 Pg. 274; THENCE continuing with the common line of Summey-Knoll subdivision Phase 1, Gaston County, and Summey-Knoll subdivision Phase 3 North 16 degrees 19 minutes 37 seconds West for a distance of 704.38 feet to a planted stone, also a corner of Gaston County and Summey-Knoll subdivision Phase 3; THENCE continuing with the common line of Gaston County and Summey-Knoll subdivision Phase 3 North 37 degrees 55 minutes 33 seconds East for a distance of 307.72 feet to a planted stone, also a corner of Gaston County, Summey-Knoll subdivision Phase 3, and Ralph Summey; THENCE continuing with the common line of Gaston County and Ralph Summey North 73 degrees 53 minutes 16 seconds West for a distance of 152.62 feet to a pt, also a corner of Gaston County and Ralph Summey; THENCE continuing with the common line of Gaston County and Ralph Summey North 86 degrees 03 minutes 00 seconds West for a distance of 531.30 feet to a stone, also a corner of Gaston County and Ralph Summey; THENCE continuing with the common line of Gaston County and Ralph Summey North 71 degrees 44 minutes 42 seconds West for a distance of 723.22 feet to a 1.5bentpipe, also a corner of Gaston County, Ralph Summey, and Independent Baptist Tabernacle as recorded in DB 1128 Pg.832; THENCE continuing with the common line of Ralph

Summey and Independent Baptist Tabernacle North 71 degrees 01 minutes 40 seconds West for a distance of 115.64 feet to a rebar, also a corner of Ralph Summey and Independent Baptist Tabernacle; THENCE continuing with the common line of Ralph Summey and Independent Baptist Tabernacle North 49 degrees 45 minutes 20 seconds West for a distance of 214.08 feet to a stone, also a corner of Ralph Summey and Independent Baptist Tabernacle; THENCE continuing with the common line of Ralph Summey, Independent Baptist Tabernacle, and Venice Smithers as recorded in DB 1072 Pg 690 North 77 degrees 09 minutes 39 seconds West for a distance of 344.00 feet to a point in oak stump, also a corner of Ralph Summey, Venice Smithers, and in line with Larry Penley as recorded in DB 2117 Pg. 540, DB 2022 Pg. 041, DB 2157 Pg. 208; THENCE continuing with the common line of Ralph Summey and Larry Penley North 30 degrees 00 minutes 03 seconds East for a distance of 2524.61 feet to a 3/4pipe, also a corner of Ralph Summey and Larry Penley; THENCE continuing with the common line of Ralph Summey and Larry Penley North 53 degrees 35 minutes 10 seconds East for a distance of 453.61 feet to a nail at a two-inch iron pipe, also a corner of Ralph Summey, Larry Penley, and Mary Thornburg DB 3258 Pg. 459; THENCE continuing with the common line of Ralph Summey and Mary Thornburg North 20 degrees 59 minutes 49 seconds East for a distance of 213.02 feet to a 1.5PIPE, also a corner of Ralph Summey, Mary Thornburg, and Thornburg Meadows subdivision as recorded in PB 40 Pg. 41; THENCE continuing with the common line of Ralph Summey, Thornburg Meadows subdivision, and William Summey as recorded in DB 1946 Pg 708 South 78 degrees 40 minutes 24 seconds East for a distance of 741.85 feet to a one-inch iron pipe at a three foot diameter White Oak tree, also a corner of William Summey, Thornburg Meadows subdivision, and Marilyn Finger as recorded in DB 1462 Pg. 762, DB 1510 Pg. 252, DB 1770 Pg. 625, DB 1380.73; THENCE continuing with the common line of William Summey and Marilyn Finger South 13 degrees 30 minutes 46 seconds West for a distance of 2000.63 feet to an IPS, also a corner of William Summey and Marilyn Finger; THENCE continuing with the common line of William Summey and Marilyn Finger South 42 degrees 59 minutes 35 seconds East for a distance of 316.80 feet to an EIP, also a corner of William Summey and Marilyn Finger; THENCE continuing with the common line of William Summey and Marilyn Finger South 48 degrees 32 minutes 34 seconds East for a distance of 164.93 feet to an EIP, also a corner of William Summey and Marilyn Finger; THENCE continuing with the common line of William Summey and Marilyn Finger South 35 degrees 02 minutes 34 seconds East for a distance of 99.00 feet to an IPS, also a corner of William Summey, Marilyn Finger, and Ralph Summey; THENCE continuing with the common line of William Summey, Marilyn Finger, Scott Finger as recorded in DB 3227 Pg. 853, and Marilyn Finger as recorded in DB 1380 Pg. 73, DB 1050 Pg. 750 North 79 degrees 11 minutes 14 seconds East for a distance of 804.38 feet to an IPS, also a corner of William Summey, Scott Finger, and Marilyn Finger; THENCE continuing with the common line of William Summey and Marilyn Finger South 68 degrees 16 minutes 25 seconds East for a distance of 531.84 feet to an IPS, also a corner of William Summey and Marilyn Finger; THENCE continuing with the common line of William Summey and Marilyn Finger North 88 degrees 47 minutes 57 seconds East for a distance of 311.10 feet to an EIP, also a corner of William Summey and Marilyn Finger; THENCE continuing with the common line of Marilyn Finger North 01 degrees 40 minutes 12 seconds West for a distance of 462.12 feet to an IPS, also a corner of Marilyn Finger and in line with Grover Summey as recorded in DB 96E Pg. 149; THENCE continuing with the common line of Marilyn Finger and Grover Summey North 73 degrees 25 minutes 21

seconds East for a distance of 729.15 feet to a 1.5-inch iron pipe, also a corner of Marilyn Finger and Grover Summey; THENCE continuing with the common line of Marilyn Finger and Grover Summey North 73 degrees 41 minutes 02 seconds East for a distance of 10.16 feet to an EIP, also a corner of Marilyn Finger, in line with Grover Summey, and Thomas & Colleene McCall DB 3177 Pg. 611; THENCE continuing with the common line of Marilyn Finger and Thomas & Colleene McCall South 35 degrees 46 minutes 49 seconds East for a distance of 199.91 feet to a PIPE, also a corner of Marilyn Finger, Thomas & Colleene McCall, and Roccom & Sandra Vallum as recorded in DB 2910 Pg. 884; THENCE continuing with the common line of Marilyn Finger and Roccom & Sandra Vallum South 35 degrees 46 minutes 53 seconds East for a distance of 100.26 feet to an AXLE, also a corner of Marilyn Finger, Roccom & Sandra Vallum, and Alexander & Evelyn Puett as recorded in DB 474 Pg. 593; THENCE continuing with the common line of Marilyn Finger, Alexander & Evelyn Puett, Robert Holland as recorded in DB 2289 Pg. 109, Jane Kinley as recorded in DB 1404 Pg. 788, and David Hargett as recorded in DB 3364 Pg. 208 South 35 degrees 45 minutes 34 seconds East for a distance of 599.57 feet to a one-inch bent iron pipe, also a corner of Marilyn Finger, David Hargett, and College Park subdivision as recorded in PB 27 Pg. 50; THENCE continuing with the common line of Marilyn Finger and College Park subdivision South 35 degrees 41 minutes 28 seconds East for a distance of 294.83 feet to an EIP, also a corner of Marilyn Finger and College Park subdivision; THENCE continuing with the common line of Marilyn Finger and College Park subdivision North 82 degrees 17 minutes 14 seconds West for a distance of 107.78 feet to a nail at a 0.75-inch pipe, also a corner of Marilyn Finger and College Park subdivision; THENCE continuing with the common line of Marilyn Finger and College Park subdivision South 00 degrees 35 minutes 09 seconds West for a distance of 701.92 feet to a EIP, also a corner of Marilyn Finger and College Park subdivision; THENCE continuing with the common line of Marilyn Finger and College Park subdivision South 00 degrees 24 minutes 55 seconds West for a distance of 115.79 feet to an EIP, also a corner of Marilyn Finger, College Park subdivision, and Robert Finger as recorded in DB 752 Pg. 349, DB 2781 Pg. 828, DB 2393 Pg. 113; THENCE continuing with the common line of College Park subdivision and Robert Finger South 73 degrees 39 minutes 22 seconds East for a distance of 93.24 feet to a EIP, also a corner of College Park subdivision and Robert Finger; THENCE continuing with the common line of College Park subdivision and Robert Finger South 73 degrees 39 minutes 22 seconds East for a distance of 85.81 feet to a EIP, also a corner of College Park subdivision and Robert Finger; THENCE continuing with the common line of College Park subdivision and Robert Finger South 14 degrees 21 minutes 06 seconds East for a distance of 173.53 feet to an EIP, also a corner of College Park subdivision and Robert Finger; THENCE continuing with the common line of College Park subdivision and Robert Finger North 88 degrees 06 minutes 43 seconds East for a distance of 7.87 feet to a EIP, also a corner of College Park subdivision and Robert Finger; THENCE continuing with the common line of Robert Finger South 03 degrees 42 minutes 51 seconds West for a distance of 351.41 feet to a EIP, also a corner of Robert Finger; THENCE continuing with the common line of Robert Finger South 03 degrees 39 minutes 32 seconds West for a distance of 408.71 feet to a EIP, also a corner of Robert Finger and Kay Hermann, William Best, and Thomas Best as recorded in DB2974 Pg. 172; THENCE continuing with the common line of Robert Finger and Kay Hermann, William Best, and Thomas Best South 58 degrees 48 minutes 46 seconds East for a distance of 380.89 feet to a EIP, also a corner of Kay Hermann, William Best, and Thomas Best and John Gibson as

recorded in DB 1928 Pg. 751, DB 778 Pg. 164, DB 1936 Pg. 366; THENCE continuing with the common line of Kay Hermann, William Best, and Thomas Best and John Gibson South 58 degrees 36 minutes 33 seconds East for a distance of 371.55 feet to a EIP, also a corner of Kay Hermann, William Best, and Thomas Best, John Gibson, Vernon Clemmer as recorded in DB 838 Pg. 205, and Wilbur Rankin;

THENCE continuing with the common line of Wilbur Rankin and Vernon Clemmer South 58 degrees 55 minutes 50 seconds East for a distance of 104.60 feet to a EIP, also a corner of Wilbur Rankin, Vernon Clemmer, and Ronald Dixon as recorded in DB 1344 Pg. 863, DB 1458 Pg. 858; THENCE continuing with the common line of Wilbur Rankin and Ronald Dixon South 58 degrees 35 minutes 47 seconds East for a distance of 100.00 feet to a EIP, also a corner of Wilbur Rankin and Ronald Dixon; THENCE continuing with the common line of Wilbur Rankin and Ronald Dixon South 58 degrees 36 minutes 16 seconds East for a distance of 160.31 feet to a one-inch iron pipe, also a corner of Wilbur Rankin, Ronald Dixon, and Dean Carpenter;

Said property, oriented to NCGS Grid North NAD 83, contains 354.030 acres more or less as per unrecorded survey plat by John W. Lineberger PLS, dated 13-May-03.

**SECTION 2.** This act becomes effective June 30, 2003.

In the General Assembly read three times and ratified this the 29<sup>th</sup> day of June, 2003.

Became law on the date it was ratified.

## H.B. 562

## Session Law 2003-280

AN ACT TO AUTHORIZE THE CITY OF CHARLOTTE TO USE PHOTOGRAPHIC SPEED-MEASURING SYSTEMS DURING A THREE-YEAR PILOT PROGRAM IN DESIGNATED CORRIDORS; TO AUTHORIZE THE CITY OF CHARLOTTE TO ESTABLISH CIVIL PENALTIES FOR SPEED LIMIT AND SCHOOL ZONE SPEED LIMIT VIOLATIONS; AND TO AUTHORIZE THE NORTH CAROLINA CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION AND THE SECRETARY OF CRIME CONTROL AND PUBLIC SAFETY TO APPROVE STANDARDS FOR THE PHOTOGRAPHIC SPEED-MEASURING SYSTEMS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Chapter 160A of the General Statutes is amended by adding a new section to read:

**"§ 160A-300.4. Use of photographic speed-measuring systems.**

(a) A photographic speed-measuring system is a speed-measuring system that works in conjunction with a photographic, video, or electronic camera to automatically measure the speed and produce photographs, video, or digital images of vehicles violating a speed limit or speed restriction.

(b) A photographic speed-measuring system shall be approved, calibrated, and tested for accuracy in accordance with G.S. 8-50.3.

(c) A photographic speed-measuring system shall be monitored by a sworn law enforcement officer at all times that the system is actively in use.

(d) Any photographic speed-measuring system installed or in use on a street or highway shall be identified by appropriate advance warning signs conspicuously posted not more than 1,000 feet from the location of a photographic speed-measuring system.



All advance warning signs shall be consistent with a statewide standard adopted by the Department of Transportation.

(e) A municipality may adopt ordinances for the civil enforcement of G.S. 20-141 and G.S. 20-141.1 by means of a photographic speed-measuring system. Notwithstanding the provisions of G.S. 20-141, 20-141.1, and 20-176, in the event that a municipality adopts an ordinance pursuant to this section, a violation of G.S. 20-141 or G.S. 20-141.1 detected by a photographic speed-measuring system shall not be an infraction or misdemeanor. An ordinance authorized by this subsection shall provide that:

- (1) The owner of a vehicle shall be responsible for a violation unless the owner can furnish evidence that the vehicle was, at the time of the violation, in the care, custody, or control of another person. The owner of the vehicle shall not be responsible for the violation if the owner of the vehicle furnishes, within 21 days of notification of the violation, to the officials or agents of the municipality that issued the citation either of the following:
  - a. The name and address of the person or company who leased, rented, or otherwise had the care, custody, or control of the vehicle.
  - b. An affidavit stating that the vehicle involved was, at the time of the violation, stolen or in the care, custody, or control of some person who did not have permission of the owner to use the vehicle.
- (2) A violation detected by a photographic speed-measuring system shall be deemed a noncriminal violation for which a civil penalty of fifty dollars (\$50.00) shall be assessed and for which no points authorized by G.S. 20-16(c) or G.S. 58-36-65 shall be assigned to the owner or driver of the vehicle.
- (3) The owner of the vehicle shall be issued a citation, written in both English and Spanish, clearly stating the manner in which the violation may be challenged and containing both a street address within the municipality and a local or toll-free telephone number at which the owner may challenge the citation. The citation shall be processed by officials or agents of the municipality and shall be forwarded by personal service or certified mail to the address given on the motor vehicle registration. If the owner fails to pay the civil penalty or to respond to the citation within the time period specified on the citation, the owner shall have waived the right to contest responsibility for the violation and shall be subject to an additional penalty not to exceed fifty dollars (\$50.00). The municipality may establish procedures for the collection of these penalties and may recover the penalties by civil action in the nature of debt.
- (4) The municipality shall provide a nonjudicial administrative hearing process to review objections to citations or penalties issued or assessed under this section. The administrative hearing process shall include methods for challenging the violation or penalty either in person, at the street address provided on the citation, or through the telephone, at the telephone number provided on the citation. The municipality shall ensure that a Spanish-speaking person is available both at the street

address and through the telephone number to assist Spanish-speaking persons. An administrative hearing decision shall be subject to review by the superior court by proceedings in the nature of certiorari. Any petition for review by the superior court shall be filed with the clerk of superior court within 30 days after the administrative hearing decision.

- (5) The clear proceeds from the citations issued pursuant to the ordinance authorized by this section shall be paid to the county school fund. The clear proceeds from the citations shall mean the funds remaining after paying for the lease, lease-purchase, or purchase of the photographic speed-measuring system; paying for operation of the system, either by the municipality or by a contractor; paying for a program to provide public awareness of the system; and paying any administrative costs incurred by the municipality related to the use of the system."

**SECTION 2.** Chapter 8 of the General Statutes is amended by adding a new section to read:

**"§ 8-50.3. Results of photographic speed-measuring instruments; admissibility.**

(a) The results of the use of a photographic speed-measuring system as described in G.S. 160A-300.4 shall be admissible as evidence in a nonjudicial administrative hearing held pursuant to G.S. 160A-300.4(e)(4) for the purpose of establishing the speed of the vehicle detected.

(b) Notwithstanding the provisions of subsection (a) of this section, the results of a photographic speed-measuring system are not admissible unless all of the following are established:

- (1) The photographic speed-measuring system employed was approved for use by the North Carolina Criminal Justice Education and Training Standards Commission and the Secretary of Crime Control and Public Safety pursuant to G.S. 17C-6.
- (2) The photographic speed-measuring system had been calibrated and tested for accuracy in accordance with the standards established by the North Carolina Criminal Justice Education and Training Standards Commission and the Secretary of Crime Control and Public Safety for that particular system.
- (3) At the time the results were obtained, the photographic speed-measuring system was being operated by a sworn law enforcement officer who has been certified by the North Carolina Criminal Justice Education and Training Standards Commission under G.S. 17-6(a).

(c) All photographic speed-measuring systems shall be calibrated and tested in accordance with standards established by the North Carolina Criminal Justice Education and Training Standards Commission and the Secretary of Crime Control and Public Safety. A written certificate by a technician certified by the North Carolina Criminal Justice Education and Training Standards Commission showing that a test was made within the required testing period and that the system was accurate shall be competent and prima facie evidence of those facts in a nonjudicial administrative hearing held pursuant to G.S. 160A-300.4(e)(4).

(d) In every nonjudicial administrative hearing held pursuant to

G.S. 160A-300.4(e)(4), where the results of a photographic speed-measuring system are sought to be admitted, notice shall be taken of the rules approving the photographic speed-measuring system and the procedures for calibration or testing for accuracy of the system."

**SECTION 3.** G.S. 17C-6(a) reads as rewritten:

"(a) In addition to powers conferred upon the Commission elsewhere in this Chapter, the Commission shall have the following powers, which shall be enforceable through its rules and regulations, certification procedures, or the provisions of G.S. 17C-10:

...

(13a) In conjunction with the Secretary of Crime Control and Public Safety, approve use of specific models and types of photographic speed-measuring systems as described in G.S. 160A-300.4(a) and establish the standards for calibration and testing for accuracy of each approved system."

**SECTION 4.** Section 1 of this act applies to the City of Charlotte only, and the photographic speed-measuring systems may only be used in the following corridors:

- (1) South Boulevard between Interstate 485 and Scaleybark.
- (2) Independence between Briarcreek and Sardis Road North.
- (3) East W.T. Harris between The Plaza and Idlewild.
- (4) Tryon Street from 36<sup>th</sup> to Orr Road.
- (5) Tryon Street between Mallard Creek Church Road and University City Boulevard.
- (6) Eastway between Independence and Sugar Creek.
- (7) West W.T. Harris between North Tryon Street and Technology Drive.
- (8) Albemarle Road between Independence and Lawyers.
- (9) Central between Albemarle and Briar Creek.
- (10) Monroe Road between Sardis Road North and Wendover.
- (11) Providence between McKee and Providence Country Club.
- (12) Highway 51 between Park Road and Alexander Road.
- (13) Sharon Amity between Lyttleton Drive and East W.T. Harris.
- (14) Billy Graham Parkway between Interstate 85 and Woodlawn.

**SECTION 5.** This act becomes effective July 1, 2003, and expires June 30, 2006.

In the General Assembly read three times and ratified this the 18<sup>th</sup> day of June, 2003.

Became law on the date it was ratified.

**S.B. 497**

**Session Law 2003-281**

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE CITY OF MOUNT AIRY, TO ANNEX CERTAIN DESCRIBED PROPERTY INTO THE CORPORATE LIMITS OF THE CITY OF MOUNT AIRY, TO MODIFY THE CITY OF MOUNT AIRY OCCUPANCY TAX PROVISIONS, AND TO AUTHORIZE THE TOWN OF BLOWING ROCK TO INCREASE ITS OCCUPANCY TAX AND TO MAKE OTHER ADMINISTRATIVE CHANGES TO ITS OCCUPANCY TAX.

*The General Assembly of North Carolina enacts:*

**MOUNT AIRY CHARTER REVISIONS**

**SECTION 1.** The Charter of the City of Mount Airy is revised and consolidated to read as follows:

"THE CHARTER OF THE CITY OF MOUNT AIRY.

"ARTICLE I. INCORPORATION, CORPORATE POWERS, AND BOUNDARIES.

"Section 1.1. **Incorporation.** The City of Mount Airy, North Carolina, in Surry County and the inhabitants thereof shall continue to be a municipal body politic and corporate, under the name of the 'City of Mount Airy,' hereinafter at times referred to as the 'City.'

"Section 1.2. **Powers.** The City shall have and may exercise all of the powers, duties, rights, privileges, and immunities conferred upon the City of Mount Airy specifically by this Charter or upon municipal corporations by general law. The term 'general law' is employed herein as defined in G.S. 160A-1.

"Section 1.3. **Corporate Boundaries.** The corporate boundaries shall be those existing at the time of ratification of this Charter, as set forth on the official map of the City and as they may be altered from time to time in accordance with law. An official map of the City, showing the current municipal boundaries, shall be maintained permanently in the office of the City Clerk and shall be available for public inspection. Upon alteration of the corporate limits pursuant to law, the appropriate changes to the official map shall be made and copies shall be filed in the office of the Secretary of State, the Surry County Register of Deeds, and the appropriate board of elections.

"ARTICLE II. GOVERNING BODY.

"Section 2.1. **City Governing Body Composition.** The Board of Commissioners, hereinafter referred to as the 'Board' and the Mayor shall be the governing body of the City.

"Section 2.2. **Board; Composition; Terms of Office.** The Board shall be composed of five members to be elected by all the qualified voters of the City voting at large for staggered terms of four years, or until their successors are elected and qualified. Two commissioners shall be residents of the ward currently designated as the 'North Ward,' two commissioners shall be residents of the ward currently designated as the 'South Ward,' and one commissioner shall be elected as at large.

"Section 2.3. **Mayor Term of Office, Duties.** The Mayor shall be elected by all the qualified voters of the City for a term of four years or until his or her successor is elected and qualified. The Mayor shall be the official head of City government and shall preside at all meetings of the Board, shall have the right to vote only when there is an equal division on any question or matter before the Board, and shall exercise the powers and duties conferred by law or as directed by the Board.

"Section 2.4. **Mayor Pro Tempore.** The Board shall elect one of its members as Mayor Pro Tempore to perform the duties of the Mayor during the Mayor's absence or disability, in accordance with general law. The Mayor Pro Tempore shall serve in such capacity at the pleasure of the Board.

"Section 2.5. **Meetings; Quorum.** In accordance with general law, the Board shall establish a suitable time and place for its regular meetings. Special and emergency meetings may be held as provided by general law. The quorum provisions of G.S. 160A-74 shall apply.

"Section 2.6. **Qualifications for Office; Compensation; Vacancies.** The qualifications and compensation of the Mayor and Board members shall be in accordance with general law. Vacancies shall be filled as provided in G.S. 160A-63.

"ARTICLE III. ELECTIONS.

"Section 3.1. **Regular Municipal Elections.** Regular municipal elections shall be held in each odd-numbered year in accordance with the uniform municipal election laws of North Carolina. The Mayor and the Board shall be elected by the nonpartisan primary and election method as provided in G.S. 163-279(a)(3) and G.S. 163-294. Board members shall be elected by all the qualified voters of the City and shall reside in the wards they represent.

"Section 3.2. **Election of Mayor.** A Mayor shall be elected in the regular municipal election in 2005 and quadrennially thereafter.

"Section 3.3. **Election of Commissioners.** The Commissioners serving on the date of ratification of this Charter shall serve until the expiration of their terms or until their successors are elected and qualified. In the 2003 election and quadrennially thereafter, three commissioners shall be elected, the Commissioner-at-Large, one commissioner representing the North Ward for the term then expiring, and one commissioner representing the South Ward for the term then expiring. In the 2005 election and quadrennially thereafter, two commissioners shall be elected, one commissioner representing the North Ward for the term then expiring, and one commissioner representing the South Ward for the term then expiring.

"Section 3.4. **Ward Boundaries.** The City shall be divided into two wards that are currently designated as the North Ward and the South Ward. The ward boundaries are those existing at the time of ratification of this Charter, as set forth on the official map of the City and as they may be altered from time to time in accordance with general law.

"Section 3.5. **Special Elections and Referenda.** Special elections and referenda may be held only as provided by general law or applicable local acts of the General Assembly.

"ARTICLE IV. ORGANIZATION AND ADMINISTRATION.

"Section 4.1. **Form of Government.** The City shall operate under the council-manager form of government in accordance with Part 2 of Article 7 of Chapter 160A of the General Statutes.

"Section 4.2. **City Manager; Appointment; Powers and Duties.** The Board shall appoint a City Manager in accordance with G.S. 160A-147 and the provisions of Article V of this Charter.

"Section 4.3. **City Clerk.** The City Manager shall appoint a City Clerk to keep a journal of the proceedings of the Board, to maintain official records and documents, to give notice of meetings, and to perform such other duties as required by law or as directed by the City Manager.

"Section 4.4. **Finance Director.** The City Manager shall appoint a Finance Director to perform the duties designated in G.S. 159-25 and such other duties as may be prescribed by law or assigned by the Manager.

"Section 4.5. **Tax Collector.** The City shall have a Tax Collector to collect all taxes owed to the City and perform those duties specified in G.S. 105-350 and such other duties as prescribed by law or assigned by the City Manager. Notwithstanding G.S. 105-349, the City Manager shall have the power to appoint, suspend, and remove the Tax Collector in accordance with general personnel rules, regulations, policies, and ordinances as adopted by the Board.

"Section 4.6. **City Attorney.** The Board shall appoint a City Attorney licensed to practice law in North Carolina. It shall be the duty of the City Attorney to represent the City, advise City officials, and perform other duties as required by law or as directed by the Board. The Board may appoint one or more Assistant City Attorneys to assist the

City Attorney and serve in his or her absence or incapacity and who shall have the same qualifications and duties as the City Attorney.

"Section 4.7. **Other Administrative Officers and Employees.** The Board may authorize other positions to be filled by appointment by the City Manager and may organize the City government as deemed appropriate, subject to the requirements of general law.

"ARTICLE V. CITY MANAGER.

"Section 5.1. **Appointment, qualifications; term; compensation; oath.**

(a) The Board shall appoint a City Manager in accordance with Article IV of this Charter who shall be the administrative head of all departments of City government. The City Manager shall be appointed with regard to merit only and need not be a resident of the City when appointed. The Board may require the City Manager to reside within the City during the Manager's tenure of office. No Board member may be appointed or act as City Manager during the term for which the member was elected or within one year after the expiration of the member's term.

(b) Unless otherwise agreed upon by the Board and the City Manager, if the City Manager is involuntarily removed by the Board, except for good and just cause, the City Manager shall be forthwith paid any unpaid balance of salary, any accumulated and accrued job benefits, and salary for the three calendar months following the day of termination or for such other period as may be agreed upon in advance.

(c) Before entering upon the duties of office, the City Manager shall take and subscribe an oath to perform faithfully the duties of the office.

"Section 5.2. **Powers and Duties.** The City Manager shall have all the powers and duties conferred by general law, except as expressly limited by the Board, so far as authorized by general law, and the provisions of this Charter. Additionally, the City Manager shall have the following powers and duties:

(a) The City Manager may designate an assistant to perform the Manager's functions temporarily when the Manager is absent from the City, sick, or otherwise unable to act; and from time to time, with Board approval, may designate an assistant or assistants to perform the Manager's functions during any particular absence or disability. The person or persons so designated shall have all of the powers and duties of the City Manager when acting in the place of the City Manager.

(b) The City Manager may, when authorized by the Board, execute in the name and on behalf of the City, contracts, bonds, and other legal instruments, except deeds.

(c) The City Manager shall make and execute all contracts on behalf of the City in the manner authorized or provided by resolutions or ordinances adopted by the Board. The Board may, on such terms as it deems proper, allow the City Manager to authorize one or more designees to make and execute contracts.

(d) The City Manager may, when authorized by the Board, settle claims against the City for: (i) personal injuries or damages to property when the amount involved does not exceed the sum of ten thousand dollars (\$10,000) and does not exceed the actual loss sustained, including loss of time, medical expenses, and any other expenses actually incurred; and (ii) the taking of small portions of private property that are needed for the rounding of corners at intersections of streets, when the amount involved does not exceed ten thousand dollars (\$10,000) and does not exceed the actual loss sustained. Settlement of a claim by the City Manager pursuant to this subsection shall constitute a complete release of the City from any and all damages sustained by the person involved in the settlement in any manner arising out of the incident, occasion, or

taking complained of. All settlements and all releases shall be approved by the City Attorney.

(e) Unless excused by the Board, it shall be the duty of the City Manager to attend all meetings of the Board, with the right to take part in discussions and recommend for adoption such measures as the City Manager deems expedient, but the City Manager shall not vote on any matters before the Board. The City Manager shall be entitled to notice of all special and emergency Board meetings.

"Section 5.3. **Manager's Personnel Authority; Role of Elected Officials.** As chief administrator, the City Manager shall have the power to appoint, suspend, and remove all officers, department heads, and employees in the administrative service of the City, except the City Attorney and any other official whose appointment or removal is specifically vested in the Board by this Charter or general law. Neither the Board nor any of its members shall take part in the appointment or removal of department heads and employees in the administrative service of the City, except as provided by this Charter. Except for the purpose of inquiry, or for consultation with the City Attorney, the Board and its members shall deal with the administrative service solely through the City Manager, an acting City Manager, or an Interim City Manager, and neither the Board nor any of its members shall give any specific orders to any subordinates of the City Manager, an acting City Manager, or an Interim City Manager, either publicly or privately.

#### "ARTICLE VI. PUBLIC CONTRACTS.

##### "Section 6.1. **Award of Certain Contracts.**

(a) The City Manager may award, approve, and execute contracts or agreements of any kind or nature on behalf of the City when the amount of the contract or agreement does not exceed one hundred thousand dollars (\$100,000) if the Board has approved the appropriation in the annual budget for the current fiscal year for the general purpose specified in the contract or agreement. In addition, the City Manager, or the City Manager's duly authorized designee appointed in accordance with Section 5.2(a) of this Charter, may approve and execute amendments to contracts or agreements, including contracts initially approved solely by the Board when the amount in question does not exceed one hundred thousand dollars (\$100,000).

(b) The City Manager, upon authorization by the Board, may award, approve, and execute contracts for the acquisition of or the construction and installation of water and sewer lines that will eventually become a part of the City utility system, regardless of the amount in question, where the construction and installation was or shall be the sole responsibility and expense of another person, firm, or corporation.

##### "Section 6.2. **Procedures.**

(a) The City Manager shall, within 45 days of the award of any contract described in Section 6.1 of this Charter, report such award to the Board. However, the City Manager shall not be required to report contracts in a minimum amount that may be set from time to time by the Board.

(b) In awarding, approving, and executing contracts described in this Article, the City Manager shall comply with all applicable provisions of this Charter and Article 8 of Chapter 143 of the General Statutes. The City Manager may take any action that the Board is required or authorized to take under Article 8 of Chapter 143 of the General Statutes in making, approving, awarding, or executing contracts.

#### "ARTICLE VII. ACQUISITION OF PROPERTY.

"Section 7.1. **Delegation to City Manager.** The Board may delegate authority to the City Manager to purchase real property, any interest in real property, or personal

property provided that: (i) the Board shall have approved the appropriation for the purchase in the annual budget for the current fiscal year; and (ii) the City Manager, within 45 days following the purchase shall submit to the Board a written report setting forth the names of the persons or entities from whom the real property or interest in real property was purchased, a general description of the property or interest in property acquired, the purchase price paid, and the intended use of the property or interest in property.

"ARTICLE VIII. DISPOSITION OF PROPERTY.

"Section 8.1. **General Provision.** Unless specifically provided otherwise, the provisions of Article 12 of Chapter 160A of the General Statutes shall not apply to the disposition of property pursuant to this Article. The authority contained in this Article is in addition to and not in limitation of any other authority granted by this Charter or general law.

"Section 8.2. **Disposition of Property.** The Board may, upon the affirmative vote of at least four members, publicly or privately sell, lease, rent, exchange, or otherwise convey or cause to be publicly or privately sold, leased, rented, exchanged, or otherwise conveyed any property, real or personal, or any interest in such property, belonging to the City.

"Section 8.3. **Conditions and Restrictions Authorized.** The Board may sell, exchange, or otherwise transfer the fee or any lesser interest in real property to any purchaser subject to such covenants, conditions, and restrictions as the Board may deem to be in the public interest. The sale, exchange, or other transfer may be made pursuant to the provisions of this Charter, Article 12 of Chapter 160A of the General Statutes, or any other applicable provision of law, and the consideration received by the City, if any, for the sale, exchange, or transfer may reflect the restricted use of the property resulting from the covenants, conditions and restrictions. The City may invite bids or written proposals, including detailed development plans and site plans, for the purchase of any property or property interest, whether by sale, exchange, or other transfer, pursuant to such specifications as may be approved by the City. A sale, exchange, or other transfer of real property, or interest therein, pursuant to this section may be made contingent upon any necessary rezoning of the property.

"Section 8.4. **Disposition of Certain Property by City Manager.** The Board may authorize the City Manager to dispose of the following property by the methods indicated without obtaining Board approval for each disposition:

(a) Interests in real property by private negotiation or sale with respect to parcels having a fair market value of ten thousand dollars (\$10,000) or less.

(b) Water or sewer easements, or similar interests in real property, as part of any exchange for other water and sewer easements or similar interests in property.

(c) Water or sewer easements, or similar interests in real property by private negotiation and sale, when the easement or similar interest in real property is no longer needed by the City.

"Section 8.5. **Disposition of Personal Property.** The City may sell any and all surplus personal property belonging to the City at private sale.

"Section 8.6. **Lease or Rental of Property.** Notwithstanding G.S. 160A-272, the Board may, in its discretion, lease City-owned property for such terms and upon such conditions as the Board may determine, including terms of more than 10 years without the necessity of following any procedures other than those required by G.S. 160A-272 for leases of 10 years or less.



"Section 8.7. **Documents of Conveyance.** Whenever a disposition of an interest in real property is authorized by the City pursuant to this Charter or otherwise, the instrument conveying such interest may be executed by the Mayor or the Mayor's designee and attested by the City Clerk or City Manager, with the official seal of the City affixed thereto. With respect to the sale of real property the City may execute deeds in the usual form and include therein full covenants of warranty.

"ARTICLE IX. ECONOMIC DEVELOPMENT.

"Section 9.1. **Promotion of the City.** The Board is authorized to appropriate annually reasonable sums for promoting the City.

"Section 9.2. **Encouraging Local Development.** The Board is authorized and empowered to annually set apart and appropriate funds and to expend the same for the purpose of aiding, assisting, and encouraging, by contract with independent contractors or otherwise, the location of manufacturing, industrial, and commercial plants, distribution centers, or businesses in the City and for advertising the advantages and resources of the City and for such purposes as will, in the discretion of the Board, increase the taxable value of property of the City and that will promote the general welfare of the City, which purposes are declared to be lawful public purposes of the City.

"Section 9.3. **Urban Development Projects.**

(a) The term 'urban development project' as used in this section means a capital project comprising the construction or renovation of one or more buildings or other improvements, including the provision for sidewalks and streets in conjunction therewith, of which part of the overall project is privately owned and part is publicly owned.

(b) The City may acquire, construct, own, and operate or participate in the acquisition, construction, ownership, and operation of an urban development project or specific facilities within the project, including the making of loans and grants from any moneys lawfully available for the project.

(c) The City may enter into binding contracts with one or more private developers with respect to acquiring, constructing, owning, or operating an urban development project. The contract may be entered into before acquisition of any real property necessary for the project. The contract may specify the following:

- (1) The property interests of both the City and the developer. However, the property interests of the City shall be limited to facilities for a public purpose.
- (2) The responsibilities of the City and the developer for construction of the project.
- (3) The responsibilities of the City and the developers with respect to financing the project.

(d) An urban development project may be constructed on property acquired by the developer on property acquired by the City or on property acquired jointly by the City and the developer.

(e) The City may lease or convey interests in urban development project property or other property owned by it, including air rights over public facilities.

(f) The contract between the City and the developer with respect to construction of an urban development project may provide that the developer shall be responsible for: (i) construction of the entire project, reconstruction, or repair of the project or any part thereof subsequent to its initial construction; (ii) construction of any addition to the project, renovation of the project, or any part thereof, and (iii) purchase of apparatus,

supplies, materials, or equipment for the project, whether during the initial equipping of the project or subsequent thereto. The contract shall include such provisions as the Board deems sufficient to assure that the public facility included in the project or added thereto, is constructed, reconstructed, repaired, or renovated, and that the apparatus, supplies, materials, and equipment are purchased at a reasonable price. The provisions of Article 8 of Chapter 143 and Article 3 of Chapter 44A of the General Statutes shall not apply to an urban development project if the City funds constitute no more than fifty percent (50%) of the total costs of the project. Federal funds available for loan to private developers in connection with a project shall not be considered City funds for purposes of this subsection.

(g) The City may contract for the operation of any public facility included in an urban development project by any person, partnership, firm or corporation, public or private.

(h) To assist in the financing of its share of the urban development project, the City may apply for, accept, and expend funds from the federal or state government or from any other lawful source.

(i) The authority granted by this section is in addition to and not in derogation of any other authority granted to the City by general law. The City may exercise any authority granted to it by any other section of this Charter or by local act or general law in furtherance of an urban development project.

"Section 9.4 **Incubator Facilities.** The Board may establish one or more incubator facilities within the City. For purposes of this section, the term 'incubator facility' shall mean a building or group of buildings that provides space and support services for small business concerns that are beginning operation. The Board may purchase or lease any real or personal property for incubator facility purposes and may lease or sublease any such property or any other real or personal property owned by the City. The Board may make grants or loans to any such corporation from funds lawfully available for such purpose subject to any rules, regulations, restrictions, and conditions that the Board deems to be in the public interest. The City may exercise any authority granted to it by any other section of this Charter or by local act or general law in furtherance of an incubator facility project.

"ARTICLE X. EXTENSION OF LIMITS.

"Section 10.1. **Annexation of Noncontiguous Areas.** G. S. 160A-58.1(b)(5) shall not apply to the City.

"ARTICLE XI. LAND USE.

"Section 11.1. **Planning Board and Zoning Board of Adjustment.** The membership and method of appointing the members of the City Planning Board and the City Zoning Board of Adjustment shall continue as provided in S.L. 2001-101.

"Section 11.2. **Reservation of Recreation Areas.** In adopting any subdivision control ordinance pursuant to the provisions of this Charter or G.S. 160A-372, the Board is authorized to provide for the dedication or reservation of recreation areas serving residents of the immediate neighborhood within the subdivision, or to provide for the payment in lieu thereof of such sum of money as the Board may determine to be the equivalent in value of such recreation area. The Board may use any moneys received in lieu of dedicated recreation areas for acquiring recreation areas beyond the boundaries of the immediate subdivision but within the neighborhood wherein the subdivision lies.

Section 11.3. **Trees and Shrubs.** In order to preserve and enhance one of the most valuable natural resources of the community and to protect the safety and welfare of its citizens, the City may adopt ordinances to regulate the planting, removal, and preservation of trees and shrubs on public and private property within the municipal boundaries and within its area of extraterritorial planning jurisdiction. Any ordinance adopted pursuant to this section shall exclude property to be developed for single-family or duplex residential uses and shall exclude normal forestry activities conducted pursuant to a forestry management plan prepared or approved by a registered forester. Prior to adopting an ordinance under this section, a public hearing shall be held before the Board. Notice of the hearing shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the area. The notice shall be published the first time not less than 10 days nor more than 25 days before the date fixed for the hearing.

"ARTICLE XII WATER AND SEWER.

"Section 12.1. **Operation Outside Corporate Limits.** In addition to any authority granted by general law, the City is authorized to acquire, construct, establish, enlarge, improve, maintain, own, operate, contract for the operation of, protect, and regulate water and sewer utilities outside the corporate limits of the City as the Board may deem appropriate, including the area encompassing the territory located within the Commonwealth of Virginia that lies between the northern boundary of Surry County, North Carolina, and the southern right-of-way line of the Blue Ridge Parkway.

"Section 12.2. **Utility Bill Collection Procedures.** Whenever water or sewer utilities are provided by the City under authority of general law or this Charter, and the person legally responsible for payment of the rents, rates, fees, or charges for the service fails to pay the rents, rates, fees, or charges for more than 60 days after they became delinquent, the City may treat the amount due as if it were a tax due to the City and may proceed to collect the amount due through the use of levy on tangible personal property under G.S. 105-366 and G.S. 105-367.

"Section 12.3. **Dedication of Certain Water and Sewer Lines.** If any person, firm, or corporation connects any privately owned water or sewer lines to City-owned or operated lines without first dedicating, giving, granting, conveying, or otherwise contracting with respect to the lines, the act of connection shall be deemed a dedication, gift, grant, and conveyance of the lines to the City. The City may accept the lines or may reject them and order the lines disconnected.

"Section 12.4. **Special Assessments.** In exercising the authority granted under Article 16 of Chapter 160A of the General Statutes to extend and operate public enterprises outside the corporate limits, the City may specially assess all or part of the costs of installing, constructing, reconstructing, extending, building, or improving water supply and distribution systems or sewage collection and disposal systems outside the corporate limits of the city against property benefited from the systems. However, no special assessment shall be levied unless and until a valid petition for the improvements has been submitted to the City by the owners of the affected property. To be valid, the petition must be signed by at least a majority in number of the owners of property to be assessed, who must represent at least a majority of all of the lineal feet of frontage of the lands abutting the water or sewer improvement. Except as herein provided, special assessments levied pursuant to this section shall be levied and collected in the same way and under the same authority and procedures as special assessments levied and collected by the City upon property within the corporate limits. The effect of levying assessments

under this section shall for all purposes be the same as if the assessments were levied under authority of Article 10 of Chapter 160A of the General Statutes.

"ARTICLE XIII. STREETS AND SIDEWALKS.

"Section 13.1. **Assessments for Street Improvements.** In addition to any authority that is now or may hereafter be granted by general law for making street improvements, the Board is authorized to order to be made or to make street improvements according to the standards and specifications of the City and to assess the total costs or a portion thereof against abutting property owners in accordance with the provisions of this Article.

"Section 13.2. **When Petition Unnecessary.** The Board may order street improvements and assess the total costs or a portion thereof, exclusive of the costs incurred at street intersections, against the abutting property owners according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the General Statutes, without the necessity of a petition, upon a finding by the Board of one of the following:

(a) The street or part thereof is unsafe for vehicular traffic and it is in the public interest to make the improvement.

(b) It is in the public interest to connect two streets or portions of a street already improved.

(c) It is in the public interest to widen a street, or part thereof, that is already improved. However, assessments for widening any street or portion of a street without petition shall be limited to the cost of widening and otherwise improving the street in accordance with the street classification and improvement standards established by the City's thoroughfare or major street plan for the particular street or part thereof to be widened and improved under the authority granted by this Article.

"Section 13.3. **Street Improvement Defined.** 'Street improvement' shall include grading, regrading, surfacing, resurfacing, widening, paving, and repaving streets, the acquisition of rights-of-way, and the construction or reconstruction of curbs, gutters and street drainage facilities.

"Section 13.4. **Sidewalk Improvements.** In addition to any authority that is now or may hereafter be granted by general law for making sidewalk improvements, the Board is authorized to order to be made or to make sidewalk improvements or repairs according to the standards and specifications of the City, and to assess the total costs or a portion thereof, against abutting property owners according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the General Statutes. However, the Board may order the cost of sidewalk improvements made only on one side of a street to be assessed against property owners abutting both sides of the street.

"Section 13.5. **Assessment Procedure.** In ordering street or sidewalk improvements without a petition and assessing the cost thereof under authority of this Article, the Board shall comply with the procedure provided in Article 10 of Chapter 160A of the General Statutes, except those provisions relating to the petition of property owners and the sufficiency thereof.

"Section 13.6. **Effect of Assessments.** The effect of the act of levying assessments under authority of this Article shall for all purposes be the same as if the assessments were levied under authority of Article 10 of Chapter 160A of the General Statutes.

"ARTICLE XIV. FIREFIGHTERS' SUPPLEMENTARY PENSION FUND.

"Section 14.1. **Continuation of Fund.** The Mount Airy Firefighters' Supplementary Pension Fund shall continue as authorized in Chapter 302 of the 1967 Session Laws, as amended by Chapter 12 of the 1969 Session Laws, Chapter 121 of the 1973 Session

Laws, Chapter 165 of the 1995 Session Laws, S.L. 2000-22, and any subsequent acts of the General Assembly.

"ARTICLE XV. REGULATORY JURISDICTION.

"Section 15.1. **Speed Limits.** The Board may authorize the Chief of Police to establish speed limits pursuant to G.S. 20-141.

"Section 15.2. **Solicitation and Peddling.** The City may exercise the authority contained in G.S. 160A-178 and G.S. 160A-179 within its area of extraterritorial planning jurisdiction.

"Section 15.3. **Drainage.** The Board may forbid any obstruction or stopping on any natural drainway within the City or diverting the water therefrom and may require land owners desiring to construct or install pipes or culverts to carry water or other drainage off their land to construct and install the pipes or culverts according to plans and specifications adopted or approved by the Board.

"ARTICLE XVI. TOURISM DEVELOPMENT AUTHORITY.

"Section 16.1. **Occupancy Tax Authorized.** The Mount Airy Tourism Development Authority shall continue as authorized in S.L. 1997-410, as amended by S.L. 2001-7, and any subsequent acts of the General Assembly."

**SECTION 2.** The purpose of this act is to revise the Charter of the City of Mount Airy and to consolidate certain acts concerning the property, affairs, and government of the City. It is intended to continue without interruption those provisions of prior acts that are expressly consolidated into this act so that all rights and liabilities that have accrued are preserved and may be enforced.

**SECTION 3.** This act does not repeal or affect any acts concerning the property, affairs, or government of public schools or any acts validating official actions, proceedings, contracts, or obligations of any kind.

**SECTION 4.** The following acts, or portions of acts, having served the purposes for which they were enacted, or having been consolidated into this act, are expressly repealed:

Chapter 160 of the 1925 Private Laws, except for Section 1 and Section 4.

Chapter 27 of the 1927 Private Laws.

Chapter 89 of the 1927 Private Laws.

Chapter 191 of the 1937 Private Laws.

Chapter 35 of the 1939 Private Laws.

Chapter 710 of the 1943 Session Laws, as it applies to the City of Mount Airy.

Chapter 932 of the 1945 Session Laws, as it applies to the City of Mount Airy.

Chapter 244 of the 1949 Session Laws.

Chapter 709 of the 1949 Session Laws.

Chapter 1072 of the 1957 Session Laws.

Chapter 734 of the 1959 Session Laws.

Chapter 1005 of the 1961 Session Laws.

Chapter 120 of the 1963 Session Laws.

Chapter 285 of the 1963 Session Laws.

Chapter 521 of the 1963 Session Laws.

Chapter 630 of the 1963 Session Laws.

Chapter 652 of the 1963 Session Laws.

Chapter 46 of the 1969 Session Laws.

Chapter 291 of the 1969 Session Laws.

Chapter 426 of the 1971 Session Laws, except for Section 6.

Chapter 485 of the 1973 Session Laws, as it applies to the City of Mount Airy.

Chapter 75 of the 1977 Session Laws.

Chapter 416 of the 1989 Session Laws.

Chapter 793 of the 1991 Session Laws, as it applies to the City of Mount Airy.

Chapter 26 of the 1993 Session Laws.

Chapter 30 of the 1995 Session Laws.

S.L. 1999-232.

S.L. 1999-325.

**SECTION 5.** The Mayor and Commissioners serving on the date of ratification of this act shall serve until the expiration of their terms or until their successors are elected and qualified.

**SECTION 6.** No provision in this act is intended, nor shall be construed, to affect in any way, any rights or interests, whether public or private:

- (1) Now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provision of law repealed by this act.
- (2) Derived from, or which might be sustained or preserved in reliance upon, action heretofore taken pursuant to or within the scope of any provisions of law repealed by this act.

**SECTION 7.** No law heretofore repealed expressly or by implication, and no law granting authority that has been exhausted, shall be revived by: (i) the repeal herein of any act repealing such law, or (ii) any provision of this act that disclaims an intention to repeal or affect enumerated or designated laws.

**SECTION 8.** All existing ordinances, resolutions, and other provisions of the City of Mount Airy not inconsistent with the provisions of this act shall continue in effect until repealed, modified, or amended.

**SECTION 9.** No action or proceeding pending on the effective date of this act by or against the City or any of its departments or agencies shall be abated or otherwise affected by this act.

**SECTION 10.** Whenever a reference is made in this act to a particular provision of the General Statutes and such provision is later amended, superseded, or recodified, the reference shall be deemed amended to refer to the amended General Statute or to the General Statute that most nearly corresponds to the statutory provision that is superseded or recodified.

#### **MOUNT AIRY ANNEXATION**

**SECTION 11.** The following described property is added to the corporate limits of the City of Mount Airy:

##### **TRACT ONE**

That portion of the property described in Deed Book 319, page 670, Surry County Registry containing 9.4 acres and designated as Surry County Tax Parcel Number 5939-09-07-7472 that is not already within the corporate limits.

##### **TRACT TWO**

The property described in Deed Book 629, page 420, Surry County Registry containing approximately 0.81 acre and designated as Surry County Tax Parcel Number 5021-12-85-6400.

##### **TRACT THREE**

The property described in Deed Book 625, page 398, Surry County Registry containing approximately 0.70 acre and designated as Surry County Tax Parcel Number 5929-10-45-8751.

**MOUNT AIRY OCCUPANCY TAX REVISIONS**

**SECTION 12.** Section 1 of S.L. 1997-410 reads as rewritten:

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

(a1) Additional Occupancy Tax. – In addition to the tax authorized by subsection (a) of this section, the Mount Airy Board of Commissioners may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of accommodations taxable under that subsection. The levy, collection, administration, use, and repeal of the tax authorized by this section shall be in accordance with this act. The City of Mount Airy may not levy a tax under this subsection unless it also levies a tax under subsection (a) of this section.

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

(c) Distribution and use of tax revenue. The City of Mount Airy shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Mount Airy Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection ~~only~~ to promote travel and tourism in the Mount Airy ~~area~~ area and shall use the remainder for tourism-related expenditures.

The following definitions apply in this section:

- (1) Net proceeds. – Gross proceeds less the cost to the city of administering and collecting the tax, as determined by the finance officer, not to exceed ~~seven percent (7%) of the gross proceeds~~ three percent (3%) of the first five hundred thousand dollars (\$500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.
- (2) Promote travel and tourism. – ~~Advertise and market activities, develop and distribute promotional materials, To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, and or engage in other similar promotional activities that attract tourists or business travelers to the area. The term also includes administration of the Mount Airy Tourism Development Authority.~~
- (3) Tourism-related expenditures. – Expenditures that, in the judgment of the Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, and convention facilities in the city by attracting tourists or business travelers to the city. The term includes tourism-related capital expenditures."

**BLOWING ROCK OCCUPANCY TAX REVISIONS**

**SECTION 13.** Chapter 171 of the 1987 Session Laws reads as rewritten:

"**Section 1.** Occupancy tax. = (a) Authorization and scope. = The Blowing Rock Town Council may ~~by resolution, after not less than 10 days' public notice and after a~~

~~public hearing held pursuant thereto~~, levy a room occupancy tax of three percent (3%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by a hotel, motel, inn, or similar place within the corporate limits of the town that is subject to sales tax imposed by the State under ~~G.S. 105-164.4(3)~~G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations.

(a1) Additional Occupancy Tax. – In addition to the tax authorized by subsection (a) of this section, the Blowing Rock Town Council may levy a room occupancy and tourism development tax of three percent (3%) of the gross receipts derived from the rental of accommodations taxable under that section. The levy, collection, administration, use, and repeal of the tax authorized by this section shall be in accordance with this act. The Town of Blowing Rock may not levy a tax under this section unless it also levies a tax under subsection (a) of this section.

~~(b) Collection. Every operator of a business subject to the tax levied under this section shall, on and after the effective date of the levy of the tax, collect the tax. This tax shall be collected as part of the charge for furnishing a taxable accommodation. The tax shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the operator of the business as trustee for and on account of the town. The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business. The town shall design, print, and furnish to all appropriate businesses and persons in the town the necessary forms for filing returns and instructions to ensure the full collection of the tax. An operator of a business who collects the occupancy tax levied under this section may deduct from the amount remitted to the town a discount of three percent (3%) of the amount collected.~~

~~(c) Administration. – A tax levied under this act shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this act. The town shall administer a tax levied under this section. A tax levied under this section is due and payable to the town finance officer in monthly installments on or before the 15th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the 15th day of each month, prepare and render a return on a form prescribed by the town. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.~~

~~A return filed with the town finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law.~~

~~(d) Penalties. A person, firm, corporation, or association who fails or refuses to file the return required by this section shall pay a penalty of ten dollars (\$10.00) for each day's omission. In case of failure or refusal to file the return or pay the tax for a period of 30 days after the time required for filing the return or for paying the tax, there shall be an additional tax, as a penalty, of five percent (5%) of the tax due in addition to any other penalty, with an additional tax of five percent (5%) for each additional month or fraction thereof until the tax is paid.~~

~~Any person who willfully attempts in any manner to evade a tax imposed under this section or who willfully fails to pay the tax or make and file a return shall, in addition to all other penalties provided by law, be guilty of a misdemeanor and shall be punishable by a fine not to exceed one thousand dollars (\$1,000), imprisonment not to exceed six months, or both. The town council may, for good cause shown, compromise or forgive the penalties imposed by this subsection.~~



(e) ~~Distribution and use of tax revenue. – The Town of Blowing Rock shall retain from the gross proceeds of the tax an amount sufficient to pay its direct costs for administrative and collection expenses, not to exceed three percent (3%) of the gross proceeds. The town council shall, at least once annually, conduct a hearing on the proposed use of the net proceeds of the tax. The amount of the net proceeds shall be reported at the hearing. After the hearing, the town council may remit twenty percent (20%) of the net proceeds reported at the hearing to the Blowing Rock Chamber of Commerce. The Blowing Rock Chamber of Commerce may use the funds remitted to it pursuant to this subsection only to promote tourism within the Town of Blowing Rock. The remainder of the net proceeds may be used by the town to enhance the ability of the town to attract tourism, except that the town may not expend any of the net proceeds for general fund operating expenses that are not tourist-related or for water and sewer capital or operating expenses that are not tourist-related.~~ shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Blowing Rock Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Blowing Rock and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

- (1) Net proceeds. – Gross proceeds less the cost to the town of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars (\$500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.
- (2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.
- (3) Tourism-related expenditures. – Expenditures that, in the judgment of the Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, and convention facilities in the town by attracting tourists or business travelers to the town. The term includes tourism-related capital expenditures.

**Sec. 1.1. Blowing Rock Tourism Development Authority.** – (a) Appointment and membership. – When the Blowing Rock Town Council adopts a resolution levying a room occupancy tax under this act, it shall also adopt a resolution creating the Blowing Rock Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the town, and at least three-fourths of the members must be individuals who are currently active in the promotion of travel and tourism in the town. The town council shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Blowing Rock shall be the ex officio finance officer of the Authority.

(b) Duties. – The Authority shall expend the net proceeds of the tax levied under this act for the purposes provided in Section 1 of this act. The Authority shall promote travel and tourism in the district and make tourism-related expenditures in the town.

(c) Reports. – The Authority shall report quarterly and at the close of the fiscal year to the Blowing Rock Town Council on its receipts and expenditures for the preceding quarter and for the year in such detail as the town council may require.

~~(f) Effective date of levy. A tax levied under this section shall become effective on the date specified in the resolution levying the tax. That date must be the first day of a calendar month, however, and may not be earlier than the first day of the second month after the date the resolution is adopted.~~

~~(g) Repeal. A tax levied under this section may be repealed by a resolution adopted by the Blowing Rock Town Council. Repeal of a tax levied under this section shall become effective on the first day of a month and may not become effective until the end of the fiscal year in which the repeal resolution was adopted. Repeal of a tax levied under this section does not affect a liability for a tax that was attached before the effective date of the repeal, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal.~~

Sec. 2. This act is effective upon ratification."

**SECTION 14.** G.S. 160A-215(g) reads as rewritten:

"(g) This section applies only to Beech Mountain District W, to the Cities of Gastonia, Goldsboro, Greensboro, High Point, Kings Mountain, Lexington, Lincolnton, Lumberton, Monroe, Mount Airy, Shelby, Statesville, Washington, and Wilmington, to the Towns of Beech Mountain, Blowing Rock, Carolina Beach, Carrboro, Kure Beach, Jonesville, Mooresville, North Topsail Beach, Selma, Smithfield, St. Pauls, Wilkesboro, and Wrightsville Beach, and to the municipalities in Avery and Brunswick Counties."

**SECTION 15.** Section 11 of this act becomes effective June 30, 2003. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 30<sup>th</sup> day of June, 2003.

Became law on the date it was ratified.

## H.B. 542

## Session Law 2003-282

AN ACT TO ALLOW THE TOWNS OF CASWELL BEACH, OAK ISLAND, OCEAN ISLE BEACH, AND SUNSET BEACH AND THE VILLAGE OF BALD HEAD ISLAND TO EXERCISE THE POWER OF EMINENT DOMAIN FOR THE PURPOSES OF ENGAGING IN BEACH EROSION CONTROL, FLOOD AND HURRICANE PROTECTION WORKS, AND PUBLIC BEACH ACCESS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 40A-3(b1) reads as rewritten:

"(b1) Local Public Condemnors [Modified Provision for Certain Localities]. – For the public use or benefit, the governing body of each municipality or county shall possess the power of eminent domain and may acquire by purchase, gift or condemnation any property or interest therein, either inside or outside its boundaries, for the following purposes.

- (1) Opening, widening, extending, or improving roads, streets, alleys, and sidewalks. The authority contained in this subsection is in addition to the authority to acquire rights-of-way for streets, sidewalks and

highways under Article 9 of Chapter 136. The provisions of this subdivision (1) shall not apply to counties.

- (2) Establishing, extending, enlarging, or improving any of the public enterprises listed in G.S. 160A-311 for cities, or G.S. 153A-274 for counties.
- (3) Establishing, enlarging, or improving parks, playgrounds, and other recreational facilities.
- (4) Establishing, extending, enlarging, or improving storm sewer and drainage systems and works, or sewer and septic tank lines and systems.
- (5) Establishing, enlarging, or improving hospital facilities, cemeteries, or library facilities.
- (6) Constructing, enlarging, or improving city halls, fire stations, office buildings, courthouse jails and other buildings for use by any department, board, commission or agency.
- (7) Establishing drainage programs and programs to prevent obstructions to the natural flow of streams, creeks and natural water channels or improving drainage facilities. The authority contained in this subdivision is in addition to any authority contained in Chapter 156.
- (8) Acquiring designated historic properties, designated as such before October 1, 1989, or acquiring a designated landmark designated as such on or after October 1, 1989, for which an application has been made for a certificate of appropriateness for demolition, in pursuance of the purposes of G.S. 160A-399.3, Chapter 160A, Article 19, Part 3B, effective until October 1, 1989, or G.S. 160A-400.14, whichever is appropriate.
- (9) Opening, widening, extending, or improving public wharves.
- (10) Engaging in or participating with other governmental entities in acquiring, constructing, reconstructing, extending, or otherwise building or improving beach erosion control or flood and hurricane protection works, including, but not limited to, the acquisition of any property that may be required as a source for beach renourishment.
- (11) Establishing access for the public to public trust beaches and appurtenant parking areas.

The board of education of any municipality or county or a combined board may exercise the power of eminent domain under this Chapter for purposes authorized by other statutes.

The power of eminent domain shall be exercised by local public condemnors under the procedures of Article 3 of this chapter.

This subsection applies only to ~~Carolina Beach, Carteret County, Dare County, and Carteret and Dare Counties~~, the Towns of Atlantic Beach, Carolina Beach, Caswell Beach, Emerald Isle, Holden Beach, Indian Beach, Kill Devil Hills, Kitty Hawk, Kure Beach, Nags Head, North Topsail Beach, Oak Island, Ocean Isle Beach, Pine Knoll Shores, Sunset Beach, Surf City, Topsail Beach, and Wrightsville Beach, ~~Beach~~, and the Village of Bald Head Island."

**SECTION 2.** G.S. 40A-42(a)(2) reads as rewritten:

- "(2) [Modified Provision for Certain Localities]. – When a local public condemnor is acquiring property by condemnation for a purpose set out in G.S. 40A-3(b1)(1), (4), (7), (10), or (11), or when a city is

acquiring property for a purpose set out in G.S. 160A-311(1), (2), (3), (4), (6), or (7), or when a county is acquiring property for a purpose set out in G.S. 153A-274(1), (2) or (3), or when a local board of education or any combination of local boards of education is acquiring property for any purpose set forth in G.S. 115C-517, or when a condemnor is acquiring property by condemnation as authorized by G.S. 40A-3(c)(8), (9), (10), (12), or (13), title to the property and the right to immediate possession shall vest pursuant to this subsection. Unless an action for injunctive relief has been initiated, title to the property specified in the complaint, together with the right to immediate possession thereof, shall vest in the condemnor upon the filing of the complaint and the making of the deposit in accordance with G.S. 40A-41.

This subdivision applies only to ~~Caroline Beach, Carteret County, Dare County, and Carteret and Dare Counties~~, the Towns of Atlantic Beach, Carolina Beach, Caswell Beach, Emerald Isle, Holden Beach, Indian Beach, Kill Devil Hills, Kitty Hawk, Kure Beach, Nags Head, North Topsail Beach, Oak Island, Ocean Isle Beach, Pine Knoll Shores, Sunset Beach, Surf City, Topsail Beach, and Wrightsville ~~Beach, Beach, and the Village of Bald Head Island.~~"

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

In the General Assembly read three times and ratified this the 30<sup>th</sup> day of June, 2003.

Became law on the date it was ratified.

#### S.B. 274

#### Session Law 2003-283

AN ACT TO MAKE ADJUSTMENTS TO THE BUDGET TO DIRECT SAVINGS IDENTIFIED BY THE BLUE RIBBON COMMISSION ON MEDICAID REFORM TO REPLENISH THE MEDICAID TRUST FUND, TO PROVIDE FOR REVIEW OF 2004-2005 FISCAL YEAR AVAILABILITY, TO PROVIDE CONTINGENCIES FOR FAILURE TO IDENTIFY ADEQUATE SURPLUS PROPERTY TO BE SOLD, TO PROVIDE REVENUE SHORTFALL CONTINGENCY PREPARATIONS, TO REPLENISH CONTINGENCY AND EMERGENCY FUND ALLOCATIONS, AND TO MAINTAIN THE CURRENT LAW ON RECEIPTS.

*The General Assembly of North Carolina enacts:*

#### **DIRECT SAVINGS IDENTIFIED BY BLUE RIBBON COMMISSION ON MEDICAID REFORM TO REPLENISH MEDICAID TRUST FUND**

**SECTION 1.** If House Bill 397, 2003 Regular Session, becomes law, Section 6.14A of that act is amended by adding a new subsection to read:

**"SECTION 6.14A.(c)** Cost savings resulting from measures identified by the North Carolina Blue Ribbon Commission on Medicaid Reform established by this section shall first be used to replenish the Medicaid Trust Fund in order to meet expected federal obligations in the 2004-2005 fiscal year. If these cost savings are not established by July 1, 2004, then the General Assembly shall identify in the bill revising the 2004-2005 budget other funds to replenish the Medicaid Trust Fund in an amount sufficient to meet expected federal obligations."

**2004-2005 FISCAL YEAR AVAILABILITY**

**SECTION 2.** If House Bill 397, 2003 Regular Session, becomes law, then Section 6.23 of that act is amended by adding a new subsection to read:

"SECTION 6.23.(a1) By November 1, 2003, the Joint Legislative Commission on Governmental Operations shall review the balances in all special funds and recommend those special funds from which the transfers are to be made under this section for the 2003-2004 fiscal year. The General Assembly shall identify in the bill revising the 2004-2005 budget the special funds that may be transferred by the Office of State Budget and Management for the 2004-2005 fiscal year and used to meet the General Fund availability for that fiscal year."

**CONTINGENCIES FOR FAILURE TO IDENTIFY ADEQUATE SURPLUS PROPERTY TO BE SOLD**

**SECTION 3.** If House Bill 397, 2003 Regular Session, becomes law, then Section 6.8(b) of that act reads as rewritten:

**"SECTION 6.8.(b)** Establish State-Owned Surplus Real Property Disposal System; Purpose; Use of Proceeds. – The Department of Administration, in consultation with the Office of State Budget and Management, the Department of Transportation, The University of North Carolina, and all other affected State departments, agencies, and institutions, shall develop and implement a State-owned surplus real property disposal system. The purpose of the system is to establish a uniform real property disposal system that will continuously identify State-owned surplus real property, evaluate that property, and dispose of that property as appropriate. Within 60 days after receiving the list from the State Property Office, the Joint Legislative Commission on Governmental Operations shall review the list of State-owned surplus real property and recommend which properties they wish to be sold. Unless otherwise provided by law, the clear proceeds of the sale of State-owned surplus real property shall be credited to the General Fund. It is the intent of the General Assembly that these proceeds shall partially offset debt service costs occasioned by the use of Certificates of Participation to finance the repair and renovation of State buildings. If the clear proceeds from the disposal of such property are not expected to generate the expected availability of funds contemplated under this section to be used to offset debt service by June 30, 2005, the General Assembly shall identify in the bill revising the 2004-2005 budget other sources of funds to fund the debt service."

**REVENUE SHORTFALL CONTINGENCY PREPARATIONS**

**SECTION 4.** If House Bill 397, 2003 Regular Session, becomes law, Section 2.2(e) of that act reads as rewritten:

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

However, if the Director of the Budget finds by February 28, 2004, that economic growth forecasts for the 2004-2005 fiscal year indicate a shortfall in revenue below that anticipated by this act, then for every one-half percent (0.5%) below five and one-half percent (5.5%) in anticipated growth for the 2004-2005 fiscal year, fifty million dollars (\$50,000,000) may be transferred from the Savings Reserve Account on or after July 1, 2004, to support fiscal year 2004-2005 General Fund appropriations up to the balance of the Savings Reserve Account.

This subsection becomes effective June 30, 2003."

**REPLENISH CONTINGENCY AND EMERGENCY FUND ALLOCATIONS**

**SECTION 5.** If House Bill 397, 2003 Regular Session, becomes law, Section 6.4 of that act reads as rewritten:

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

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

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

**SECTION 6.4.(b)** If funds are expended from the Contingency and Emergency Fund for the purposes set out in subdivision (a)(1) or (a)(2) of this section, the Director of the Budget may use funds otherwise appropriated from the General Fund under this act to replenish the Contingency and Emergency Fund by the same amount."

**MAINTAIN CURRENT LAW ON RECEIPTS**

**SECTION 6.** If House Bill 397, 2003 Regular Session, becomes law, Section 6.2 of that act is repealed.

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

In the General Assembly read three times and ratified this the 30<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 5:15 p.m. on the 30<sup>th</sup> day of June, 2003.

**H.B. 397****Session Law 2003-284**

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

*The General Assembly of North Carolina enacts:*

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

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

**TITLE OF ACT**

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

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

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

<b>Current Operations - General Fund</b>	<b>2003-2004</b>	<b>2004-2005</b>
<b>EDUCATION</b>		
Community Colleges System Office	660,927,719	660,199,222
Department of Public Instruction	6,035,050,302	6,034,995,183
University of North Carolina - Board of Governors	1,792,141,661	1,822,426,657
<b>HEALTH AND HUMAN SERVICES</b>		
Department of Health and Human Services		
Office of the Secretary	82,168,433	80,968,433
Division of Aging	27,685,838	27,685,838
Division of Blind Services/Deaf/HH	9,302,670	9,387,008
Division of Child Development	259,017,167	259,210,693
Division of Education Services	31,806,862	31,670,076
Division of Facility Services	12,256,792	12,256,792
Division of Medical Assistance	1,987,409,086	2,449,169,963
Division of Mental Health	577,290,247	580,423,098
NC Health Choice	49,484,279	55,432,822
Division of Public Health	124,177,475	123,448,895
Division of Social Services	179,178,674	189,029,268
Division of Vocational Rehabilitation	40,042,124	40,834,858
Total	3,379,819,647	3,859,517,744
<b>NATURAL AND ECONOMIC RESOURCES</b>		
Department of Agriculture and Consumer Services	48,495,356	48,616,369
Department of Commerce		
Commerce	33,396,542	34,336,301
Commerce State-Aid	11,272,085	11,222,085
NC Biotechnology Center	5,883,395	5,883,395
Rural Economic Development Center	4,658,607	4,658,607

Department of Environment and Natural Resources		
Environment and Natural Resources	147,176,308	152,798,010
Clean Water Management Trust Fund	62,000,000	62,000,000
Department of Labor	13,265,454	13,274,104
<b>JUSTICE AND PUBLIC SAFETY</b>		
Department of Correction	940,246,590	959,947,282
Department of Crime Control and Public Safety	28,744,326	28,139,010
Judicial Department	304,340,731	311,499,694
Judicial Department - Indigent Defense	73,264,829	71,019,451
Department of Justice	71,041,310	71,459,312
Department of Juvenile Justice and Delinquency Prevention	130,313,473	130,585,498
<b>GENERAL GOVERNMENT</b>		
Department of Administration	52,055,520	52,583,907
Office of Administrative Hearings	2,409,683	2,411,797
Department of State Auditor	10,293,801	10,293,801
Office of State Controller	9,694,464	9,719,451
Department of Cultural Resources		
Cultural Resources	55,227,767	54,088,598
Roanoke Island Commission	1,634,905	1,636,559
State Board of Elections	6,837,797	4,915,939
General Assembly	41,561,463	44,971,305
Office of the Governor		
Office of the Governor	4,976,503	4,826,503
Office of State Budget and Management	4,211,805	4,216,110
OSBM – Reserve for Special Appropriations	3,380,000	3,130,000
Housing Finance Agency	4,750,945	4,750,945
Department of Insurance		
Insurance	26,307,054	23,187,587
Insurance – Volunteer Safety Workers' Compensation	4,500,000	2,600,000
Office of Lieutenant Governor	601,722	601,722



Department of Revenue	74,930,766	75,174,094
Rules Review Commission	310,454	310,454
Department of Secretary of State	8,057,198	7,756,198
Department of State Treasurer		
State Treasurer	7,575,029	7,577,784
State Treasurer – Retirement for Fire and Rescue Squad Workers	7,481,179	7,481,179
<b>TRANSPORTATION</b>		
Department of Transportation	11,429,525	11,402,800
<b>RESERVES, ADJUSTMENTS AND DEBT SERVICE</b>		
Reserve for Compensation Increases	132,050,000	45,550,000
Reserve for State Health Plan	113,418,000	151,225,000
Reserve for Retiree Health Benefits	36,800,000	36,800,000
Reserve for Teachers' and State Employees' Retirement Contribution	26,546,000	154,200,000
Reserve for Transfer of Various Benefit Plans	(55,000,000)	(13,000,000)
Contingency and Emergency	5,000,000	5,000,000
Reserve for Salary Adjustments	4,500,000	4,500,000
Mental Health, Developmental Disabilities and Substance Abuse Services Trust Fund	12,500,000	0
Reserve to Implement HIPPA	2,000,000	0
State Surplus Real Property System	250,000	0
Blue Ribbon Commission on Medicaid Reform	250,000	0
Debt Service		
General Debt Service	387,785,920	503,682,683
Federal Reimbursement	1,155,948	1,155,948
<b>TOTAL CURRENT OPERATIONS –     GENERAL FUND</b>	<b>14,747,521,783</b>	<b>15,505,328,288</b>

**GENERAL FUND AVAILABILITY STATEMENT**

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

	<b>FY 2003-2004</b>	<b>FY 2004-2005</b>
<b>Unappropriated Balance Remaining from FY 2002-2003</b>	103,885	163,383,597
<b>Beginning Credit Balance</b>	409,159,298	0
Credit to Savings Reserve Account	(150,000,000)	0
Credit to Repairs & Renovations Reserve Account	(15,000,000)	0
<b>Beginning Unreserved Credit Balance</b>	244,159,298	0
<b>Revenues Based on Existing Tax Structure</b>	13,028,600,000	13,766,160,000
<b>Nontax Revenues</b>		
Investment Income	113,900,000	119,690,000
Judicial Fees	137,520,000	144,430,000
Disproportionate Share	100,000,000	100,000,000
Insurance	51,900,000	53,900,000
Other Nontax Revenues	116,050,000	120,100,000
Highway Trust Fund/Use Tax Reimbursement Transfer	252,422,125	242,586,830
Highway Fund Transfer	16,379,000	16,166,400
<b>Subtotal Nontax Revenues</b>	788,171,125	796,873,230
<b>Total General Fund Availability</b>	<b>14,061,034,308</b>	<b>14,726,416,827</b>
<b>Adjustments to Availability: 2003 Session</b>		
Maintain Sales Tax Rate at 4.5%	341,750,000	388,200,000
Maintain Top Income Tax Bracket at 8.25%	37,500,000	92,700,000
Conform to Federal Definition of Child for State Child Tax Credit	16,800,000	17,000,000
Equalize Insurance Tax Rate on Article 65 Corporations	18,600,000	13,900,000
Conform to Streamline Sales Tax Provision (Soft Drinks, Prepared Food & Modified Software)	44,050,000	47,600,000
Tax Soft Drinks in Vending Machines at 50% of General Rate	(4,050,000)	(8,600,000)
Restore Use Tax Line on Individual Returns	3,100,000	3,100,000
Revenue: Project Tax Collect	50,000,000	50,000,000
Revenue: Project Compliance	40,204,537	76,116,865
Divert MSA Settlement Proceeds from Tobacco Trust Fund	40,000,000	40,000,000
Divert MSA Settlement Proceeds from Health & Wellness Trust Fund	25,000,000	25,000,000
Divert Additional Proceeds from MSA	1,800,000	0

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

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

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

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

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

**SECTION 2.2.(f)** Notwithstanding G.S. 143-15.2 and G.S. 143-15.3A, the State Controller shall transfer fifteen million dollars (\$15,000,000) from the unreserved credit balance to the Repairs and Renovations Reserve Account on June 30, 2003. This subsection becomes effective June 30, 2003.

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

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

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

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

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

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

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

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

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

**HIGHWAY FUND AVAILABILITY STATEMENT**

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

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

**PART IV. HIGHWAY TRUST FUND APPROPRIATIONS****HIGHWAY TRUST FUND APPROPRIATIONS**

**SECTION 4.1.** Appropriations from the State Highway Trust Fund for the maintenance and operation of the Department of Transportation, and for other purposes

as enumerated, are made for the biennium ending June 30, 2005, according to the following schedule:

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

## **PART V. BLOCK GRANTS**

### **DHHS BLOCK GRANTS**

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

#### **COMMUNITY SERVICES BLOCK GRANT**

01. Community Action Agencies	\$ 15,266,973
02. Limited Purpose Agencies	848,165
03. Department of Health and Human Services to administer and monitor the activities of the Community Services Block Grant	848,165
<b>TOTAL COMMUNITY SERVICES BLOCK GRANT</b>	<b>\$ 16,963,303</b>

#### **SOCIAL SERVICES BLOCK GRANT**

01. County departments of social services (Transfer from TANF – \$4,500,000)	\$ 28,868,189
02. Allocation for in-home services provided by county departments of social services	2,101,113
03. Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	3,234,601
04. Division of Services for the Blind	3,105,711
05. Division of Facility Services	426,836

06.	Division of Aging – Home and Community Care Block Grant	1,840,234
07.	Child Care Subsidies	3,000,000
08.	Division of Vocational Rehabilitation – United Cerebral Palsy	71,484
09.	State administration	1,693,368
10.	Child Medical Evaluation Program	238,321
11.	Adult day care services	2,155,301
12.	Comprehensive Treatment Services Program	422,003
13.	Department of Administration for the N.C. State Commission of Indian Affairs In-Home Services Program for the Elderly	203,198
14.	Division of Vocational Rehabilitation Services – Easter Seals Society	116,779
15.	UNC-CH CARES Program for training and consultation services	247,920
16.	Office of the Secretary – Office of Economic Opportunity for N.C. Senior Citizens' Federation for outreach services to low-income elderly persons	41,302
17.	Division of Social Services – Child Caring Agencies	1,500,000
18.	Division of Mental Health, Developmental Disabilities, and Substance Abuse Services – Developmentally Disabled Waiting List for services	5,000,000
19.	Transfer to Preventive Health Services Block Grant for HIV/AIDS education, counseling, and testing	145,819
20.	Division of Facility Services – Mental Health Licensure	213,128

21.	Transfer to the Office of the Secretary – N.C. Inter-Agency Council for Coordinating Homeless Programs	150,000
TOTAL SOCIAL SERVICES BLOCK GRANT		\$ 54,775,307
LOW-INCOME ENERGY BLOCK GRANT		
01.	Energy Assistance Programs	\$ 12,775,323
02.	Crisis Intervention	9,192,927
03.	Administration	2,957,339
04.	Weatherization Program	4,212,740
05.	Department of Administration – N.C. State Commission of Indian Affairs	54,840
06.	Heating Air Repair and Replacement Program	1,966,153
TOTAL LOW-INCOME ENERGY BLOCK GRANT		\$ 31,159,322
MENTAL HEALTH SERVICES BLOCK GRANT		
01.	Provision of community-based services for severe and persistently mentally ill adults	\$ 5,657,798
02.	Provision of community-based services to children	2,513,141
03.	Comprehensive Treatment Services Program for Children	1,500,000
04.	Administration	568,911
TOTAL MENTAL HEALTH SERVICES BLOCK GRANT		\$ 10,239,850
SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT		
01.	Provision of community-based alcohol and drug abuse services, tuberculosis services, and services provided by the Alcohol and Drug Abuse Treatment Centers	\$ 18,901,711



02.	Continuation of services for pregnant women and women with dependent children	8,069,524
03.	Continuation of services to IV drug abusers and others at risk for HIV diseases	4,616,378
04.	Provision of services to children and adolescents	7,740,611
05.	Juvenile Services – Family Focus	851,156
06.	Allocation to the Division of Public Health for HIV/STD Risk Reduction Projects	383,980
07.	Allocation to the Division of Public Health for HIV/STD Prevention by County Health Departments	209,576
08.	Allocation to the Division of Public Health for the Maternal and Child Health Hotline	37,779
09.	Administration	2,596,307
TOTAL SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT		\$ 43,407,022
CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT		
01.	Child care subsidies	\$154,713,475
02.	Quality and availability initiatives	16,449,256
03.	Administrative expenses	6,969,533
04.	Transfer from TANF Block Grant for child care subsidies	79,562,189
TOTAL CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT		\$257,694,453
TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF) BLOCK GRANT		
01.	Work First Cash Assistance	\$129,396,275
02.	Work First County Block Grants	94,653,315

03.	Transfer to the Child Care and Development Fund Block Grant for child care subsidies	79,562,189
04.	Child Care Subsidies for TANF Recipients	26,621,241
05.	Child Welfare Workers for local DSS	11,452,391
06.	Transfer to Social Services Block Grant for County Departments of Social Services for Children's Services	4,500,000
07.	Support Our Students – Department of Juvenile Justice and Delinquency Prevention	2,249,642
08.	Residential Substance Abuse Services for Women With Children	2,000,000
09.	Domestic Violence Services for Work First Families	1,200,000
10.	After-School Services for At-Risk Children YWCA Central Carolinas Youth Development Programs \$176,000	2,249,642
11.	Division of Social Services – Administration	400,000
12.	Child Welfare Training	2,550,000
13.	TANF Automation Projects	592,500
14.	Work First/Boys and Girls Clubs	1,000,000
15.	Work Central Career Advancement Center	550,000
16.	WCH-Teen Pregnancy Prevention	1,500,000
17.	Transfer to Social Services Block Grant for Child Caring Institutions	1,500,000
18.	Special Children's Adoption Fund	2,000,000
19.	NC Fast Implementation	630,000
20.	Maternity Homes	838,000

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

**SECTION 5.1.(b)** Decreases in Federal Fund Availability. – If the United States Congress reduces federal fund availability in the Social Services Block Grant below the amounts appropriated in this section, then the Department of Health and Human Services shall allocate these decreases giving priority first to those direct services mandated by State or federal law, then to those programs providing direct services that have demonstrated effectiveness in meeting the federally and State-mandated services goals established for the Social Services Block Grant. The Department shall not include transfers from TANF for specified purposes in any calculations of reductions to the Social Services Block Grant.

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

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

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

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

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

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

The Department of Health and Human Services shall contract for the follow-up testing involved with the Newborn Screening Program. The Department may contract for these services with an entity within or outside of the State; however, the Department may only contract with an out-of-state entity if it can be demonstrated that

there is a cost savings associated with contracting with the out-of-state entity. The contract amount shall not exceed twenty-five thousand dollars (\$25,000). The amount of the contract shall be covered by funds in the Maternal and Child Health Block Grant.

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

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

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

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

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

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

- (1) The number and location of additional beds created.
- (2) The types of facilities established.
- (3) The delineation of roles and responsibilities at the State and local levels.
- (4) Demographics of the women served, the number of women served, and the cost per client.
- (5) Demographics of the children served, the number of children served, and the services provided.
- (6) Job placement services provided to women.
- (7) A plan for follow-up and evaluation of services provided with an emphasis on outcomes.
- (8) Barriers identified to the successful implementation of the expansion.

- (9) Identification of other resources needed to appropriately and efficiently provide services to Work First recipients.
- (10) Other information as requested.

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

**SECTION 5.1.(l)** The sum of one million two hundred thousand dollars (\$1,200,000) appropriated under this section in the TANF Block Grant to the Department of Health and Human Services, Division of Social Services, for the 2003-2004 fiscal year shall be used to provide domestic violence services to Work First recipients. These funds shall be used to provide domestic violence counseling, support, and other direct services to clients. These funds shall not be used to establish new domestic violence shelters or to facilitate lobbying efforts. The Division of Social Services may use up to seventy-five thousand dollars (\$75,000) in TANF funds to establish one administrative position within the Division of Social Services to implement this subsection.

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

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

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

**SECTION 5.1.(m)** The sum of two million two hundred forty-nine thousand six hundred forty-two dollars (\$2,249,642) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services, Division of Social Services, shall be used to expand after-school programs and services for at-risk children. The Department shall develop and implement a grant program to award grants to community-based programs that demonstrate the ability to reach children at risk of teen pregnancy and school dropout. The Department shall award grants to

community-based organizations that demonstrate the ability to develop and implement linkages with local departments of social services, area mental health programs, schools, and other human services programs in order to provide support services and assistance to the child and family. These funds may be used to establish one position within the Division of Social Services to coordinate at-risk after-school programs and shall not be used for other State administration. The Department shall report no later than March 1, 2004, on its progress in complying with this section to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Subcommittee on Health and Human Services, and the Fiscal Research Division.

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

**SECTION 5.1.(o)** The sum of one million five hundred thousand dollars (\$1,500,000) appropriated in this section in the Mental Health Block Grant to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, for the 2003-2004 fiscal year and the sum of four hundred twenty-two thousand three dollars (\$422,003) appropriated in this section in the Social Services Block Grant to the Department of Health and Human Services, Division of Social Services, for the 2003-2004 fiscal year shall be used to continue a Comprehensive Treatment Services Program for Children in accordance with Section 21.60 of S.L. 2001-424, as amended.

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

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

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

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

**SECTION 5.1.(s)** The sum of two million dollars (\$2,000,000) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services, Special Children Adoption Fund, for the 2003-2004 fiscal year shall

be used to implement this subsection. The Division of Social Services, in consultation with the North Carolina Association of County Directors of Social Services and representatives of licensed private adoption agencies, shall develop guidelines for the awarding of funds to licensed public and private adoption agencies upon the adoption of children described in G.S. 108A-50 and in foster care. Payments received from the Special Children Adoption Fund by participating agencies shall be used exclusively to enhance the adoption services program. No local match shall be required as a condition for receipt of these funds.

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

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

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

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

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

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

01. State Administration	\$1,000,000
02. Urgent Needs and Contingency	50,000
03. Scattered Site Housing	13,200,000
04. Economic Development	10,960,000



05. Community Revitalization	12,200,000
06. State Technical Assistance	450,000
07. Housing Development	2,000,000
08. Infrastructure	5,140,000

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

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

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

**SECTION 5.2.(d)** Limitations on Community Development Block Grant Funds. – Of the funds appropriated in this section for the Community Development Block Grant, the following shall be allocated in each category for each program year: up to one million dollars (\$1,000,000) may be used for State administration; not less than fifty thousand dollars (\$50,000) may be used for Urgent Needs and Contingency; up to thirteen million two hundred thousand dollars (\$13,200,000) may be used for Scattered Site Housing; up to ten million nine hundred sixty thousand dollars (\$10,960,000) may be used for Economic Development, including Urban Redevelopment grants; not less than twelve million two hundred thousand dollars (\$12,200,000) shall be used for Community Revitalization; up to four hundred fifty thousand dollars (\$450,000) may be used for State Technical Assistance; up to two million dollars (\$2,000,000) may be used for Housing Development; up to five million one hundred forty thousand dollars (\$5,140,000) may be used for Infrastructure. If federal block grant funds are reduced or increased by the Congress of the United States after the effective date of this act, then these reductions or increases shall be allocated in accordance with subsection (b) or (c) of this section, as applicable.

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

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

**SECTION 5.2.(g)** Department of Commerce Demonstration Grants in Partnership with Rural Economic Development Center, Inc. – The Department of Commerce, in partnership with the Rural Economic Development Center, Inc., shall award up to two million two hundred fifty thousand dollars (\$2,250,000) in

demonstration grants to local governments in very distressed rural areas of the State. These grants shall be used to address critical infrastructure and entrepreneurial needs and to provide small business assistance.

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

## **PART VI. GENERAL PROVISIONS**

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

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

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

- (1) As provided in G.S. 116-30.1, 116-30.2, 116-30.3, 116-30.4; or
- (2) If the Director of the Budget finds that the new permanent employee positions are necessary to maintain the function that generated the receipts at the level anticipated in the certified budget codes for that Fund. The Director of the Budget shall notify the President Pro Tempore of the Senate, the Speakers of the House of Representatives, the Chairs of the Appropriations Committees of the Senate and the House of Representatives, and the Fiscal Research Division of the Legislative Services Office that he intends to make such a finding at least 10 days before he makes the finding. The notification shall set out the reason the positions are necessary to maintain the function.

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

This section shall expire June 30, 2004.

**NO EXPENDITURE OF UNBUDGETED RECEIPTS**

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

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

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

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

**BUDGET DIRECTOR TO REVIEW PRACTICES**

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

- (1) The proliferation of nonreverting funds and accounts.
- (2) The designation of selected funds as "off-budget".
- (3) The sources of authority, consistent with Article V, Section 7(1) of the Constitution, under which expenditures are being made from each special fund, trust fund, internal service fund, or enterprise fund.
- (4) The proper classification and management of funds as special funds, trust funds, internal service funds, or enterprise funds consistent with criteria adopted by the Governmental Accounting Standards Board.
- (5) Appropriate budget planning within special funds, trust funds, internal service funds, and enterprise funds, including, in particular, the accurate projection of receipts, expenditures, and fund balances and

the presentation of that information for legislative review and appropriation action.

- (6) The administration of G.S. 143-27, which requires in part that the over collection of departmental receipts be accompanied by a corresponding reduction in the allotments to institutions, departments, and agencies.

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

### **BUDGET CODE ADJUSTMENTS**

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

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

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

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

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

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

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

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

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

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

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

#### **HIPAA RESERVE**

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

#### **HIPAA IMPLEMENTATION**

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

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

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

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

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

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

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

**SECTION 6.8.(b)** Establish State-Owned Surplus Real Property Disposal System; Purpose; Use of Proceeds. – The Department of Administration, in consultation with the Office of State Budget and Management, the Department of Transportation, The University of North Carolina, and all other affected State departments, agencies, and institutions, shall develop and implement a State-owned

surplus real property disposal system. The purpose of the system is to establish a uniform real property disposal system that will continuously identify State-owned surplus real property, evaluate that property, and dispose of that property as appropriate. Unless otherwise provided by law, the clear proceeds of the sale of State-owned surplus real property shall be credited to the General Fund. It is the intent of the General Assembly that these proceeds shall partially offset debt service costs occasioned by the use of Certificates of Participation to finance the repair and renovation of State buildings.

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

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

- (8) Examine current State law to assess the need for changes in order to support a uniform system to identify, evaluate, and dispose of all unused or underused State-owned land and buildings.

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

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

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

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

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

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

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

than March 1, 2004, regarding its findings and recommendations and the progress in implementing this section.

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

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

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

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

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

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

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

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

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

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

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

- (1) Number of qualified companies interested in doing energy management business with State government.
- (2) Types of energy management services available and applicable to State-owned facilities.



- (3) Long-term cost savings potentially available to the State from the implementation of various energy management services.
- (4) Modifications to State law or regulations that may be necessary to acquire and utilize successfully energy management services.

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

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

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

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

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

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

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

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

#### **COMPETITIVELY BID BEVERAGES CONTRACTS**

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

**"§ 143-64. Beverages contracts.**

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

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

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

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

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

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

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

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

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

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

~~The State may shall not disburse State funds appropriated by the General Assembly to any grantee or collected by the State for use by any grantee if unless that grantee has failed to provide any reports or financial information previously required by this section. In addition, before disbursing the funds, the Office of State Budget and Management may require the grantee to supply information demonstrating that the~~

~~grantee is capable of managing the funds in accordance with law and has established adequate financial procedures and controls. grantee:~~

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

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

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

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

~~(c) Grantee Receipt and Expenditure Reports. – A grantee that receives, uses, or expends between fifteen thousand dollars (\$15,000) and three hundred thousand dollars (\$300,000) in State funds annually, except when the funds are for the purchase of goods or services, annually must file annually with the State agency that disbursed the funds a sworn accounting of receipts and expenditures of the State funds and a description of activities and accomplishments undertaken by the grantee with State funds. This accounting must be attested to by the treasurer of the grantee and one other authorizing officer of the grantee. The accounting must be filed within six months after the end of the grantee's fiscal year in which the State funds were received. The accounting shall be in the form required by the State Auditor and provided to the grantee by the disbursing agency. Each State agency shall develop a format for these accountings and shall obtain the State Auditor's approval of the format.~~

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

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

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

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

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

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

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

(f) Audit Oversight. – The State Auditor has audit oversight, pursuant to Article 5A of Chapter 147 of the General Statutes, of every grantee that receives, uses, or expends State funds. Such a grantee must, upon request, furnish to the State Auditor for audit all books, records, and other information necessary for the State Auditor to account fully for the use and expenditure of State funds. The grantee must furnish any additional financial or budgetary information requested by the State Auditor."

**TRANSFERS BETWEEN LINE ITEMS**

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

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

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

**RESERVE FOR SPECIAL FUNDS TRANSFER**

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

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

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

**PART VII. PUBLIC SCHOOLS****TEACHER SALARY SCHEDULES**

**SECTION 7.1.(a)** Effective for the 2003-2004 school year, the Director of the Budget shall transfer from the Reserve for Experience Step Salary Increase for Teachers and Principals in Public Schools for the 2003-2004 fiscal year funds necessary to implement the teacher salary schedule set out in subsection (b) of this section, including funds for the employer's retirement and social security contributions and funds for annual longevity payments at one and one-half percent (1.5%) of base salary

for 10 to 14 years of State service, two and twenty-five hundredths percent (2.25%) of base salary for 15 to 19 years of State service, three and twenty-five hundredths percent (3.25%) of base salary for 20 to 24 years of State service, and four and one-half percent (4.5%) of base salary for 25 or more years of State service, commencing July 1, 2003, for all teachers whose salaries are supported from the State's General Fund. These funds shall be allocated to individuals according to rules adopted by the State Board of Education. The longevity payment shall be paid in a lump sum once a year.

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

2003-2004 MONTHLY SALARY SCHEDULE

"A" TEACHERS

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

## 2003-2004 MONTHLY SALARY SCHEDULE

## "M" TEACHERS

Years of Experience	"M" Teachers	NBPTS Certification
0	\$2,778	N/A
1	\$2,824	N/A
2	\$2,872	N/A
3	\$3,040	\$3,405
4	\$3,194	\$3,577
5	\$3,340	\$3,741
6	\$3,480	\$3,898
7	\$3,593	\$4,024
8	\$3,645	\$4,082
9	\$3,698	\$4,142
10	\$3,753	\$4,203
11	\$3,807	\$4,264
12	\$3,862	\$4,325
13	\$3,917	\$4,387
14	\$3,975	\$4,452
15	\$4,034	\$4,518
16	\$4,094	\$4,585
17	\$4,155	\$4,654
18	\$4,217	\$4,723
19	\$4,281	\$4,795
20	\$4,345	\$4,866
21	\$4,412	\$4,941
22	\$4,479	\$5,016
23	\$4,550	\$5,096
24	\$4,620	\$5,174
25	\$4,690	\$5,253
26	\$4,763	\$5,335
27	\$4,838	\$5,419
28	\$4,914	\$5,504
29	\$4,992	\$5,591
30+	\$4,992	\$5,591

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

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

based on their years of experience. Certified psychologists shall receive longevity payments based on years of State service in the same manner as teachers.

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

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

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

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

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

#### **SCHOOL-BASED ADMINISTRATOR SALARY SCHEDULE**

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

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

2003-2004

#### **PRINCIPAL AND ASSISTANT PRINCIPAL SALARY SCHEDULES CLASSIFICATION**

Yrs of Exp	Assistant Principal	Prin I (0-10)	Prin II (11-21)	Prin III (22-32)	Prin IV (33-43)
0-4	\$3,226	-	-	-	-
5	\$3,373	-	-	-	-
6	\$3,515	-	-	-	-
7	\$3,629	-	-	-	-
8	\$3,681	\$3,681	-	-	-
9	\$3,735	\$3,735	-	-	-
10	\$3,791	\$3,791	\$3,845	-	-
11	\$3,845	\$3,845	\$3,901	-	-
12	\$3,901	\$3,901	\$3,956	\$4,015	-



13	\$3,956	\$3,956	\$4,015	\$4,074	\$4,135
14	\$4,015	\$4,015	\$4,074	\$4,135	\$4,197
15	\$4,074	\$4,074	\$4,135	\$4,197	\$4,259
16	\$4,135	\$4,135	\$4,197	\$4,259	\$4,324
17	\$4,197	\$4,197	\$4,259	\$4,324	\$4,388
18	\$4,259	\$4,259	\$4,324	\$4,388	\$4,456
19	\$4,324	\$4,324	\$4,388	\$4,456	\$4,524
20	\$4,388	\$4,388	\$4,456	\$4,524	\$4,596
21	\$4,456	\$4,456	\$4,524	\$4,596	\$4,666
22	\$4,524	\$4,524	\$4,596	\$4,666	\$4,737
23	\$4,596	\$4,596	\$4,666	\$4,737	\$4,811
24	\$4,666	\$4,666	\$4,737	\$4,811	\$4,886
25	\$4,737	\$4,737	\$4,811	\$4,886	\$4,963
26	\$4,811	\$4,811	\$4,886	\$4,963	\$5,042
27	\$4,886	\$4,886	\$4,963	\$5,042	\$5,143
28	\$4,963	\$4,963	\$5,042	\$5,143	\$5,246
29	\$5,042	\$5,042	\$5,143	\$5,246	\$5,351
30	\$5,143	\$5,143	\$5,246	\$5,351	\$5,458
31	\$5,246	\$5,246	\$5,351	\$5,458	\$5,567
32	-	\$5,351	\$5,458	\$5,567	\$5,678
33	-	-	\$5,567	\$5,678	\$5,792
34	-	-	\$5,678	\$5,792	\$5,908
35	-	-	-	\$5,908	\$6,026
36	-	-	-	\$6,026	\$6,147
37	-	-	-	-	\$6,270

2003-2004

PRINCIPAL AND ASSISTANT PRINCIPAL SALARY SCHEDULES

CLASSIFICATION

Yrs of Exp	Prin V (44-54)	Prin VI (55-65)	Prin VII (66-100)	Prin VIII (101+)
14	\$4,259	-	-	-
15	\$4,324	-	-	-
16	\$4,388	\$4,456	-	-
17	\$4,456	\$4,524	\$4,666	-
18	\$4,524	\$4,596	\$4,737	\$4,811
19	\$4,596	\$4,666	\$4,811	\$4,886
20	\$4,666	\$4,737	\$4,886	\$4,963
21	\$4,737	\$4,811	\$4,963	\$5,042
22	\$4,811	\$4,886	\$5,042	\$5,143
23	\$4,886	\$4,963	\$5,143	\$5,246
24	\$4,963	\$5,042	\$5,246	\$5,351
25	\$5,042	\$5,143	\$5,351	\$5,458
26	\$5,143	\$5,246	\$5,458	\$5,567
27	\$5,246	\$5,351	\$5,567	\$5,678
28	\$5,351	\$5,458	\$5,678	\$5,792
29	\$5,458	\$5,567	\$5,792	\$5,908
30	\$5,567	\$5,678	\$5,908	\$6,026
31	\$5,678	\$5,792	\$6,026	\$6,147

32	\$5,792	\$5,908	\$6,147	\$6,270
33	\$5,908	\$6,026	\$6,270	\$6,395
34	\$6,026	\$6,147	\$6,395	\$6,523
35	\$6,147	\$6,270	\$6,523	\$6,653
36	\$6,270	\$6,395	\$6,653	\$6,786
37	\$6,395	\$6,523	\$6,786	\$6,922
38	\$6,523	\$6,653	\$6,922	\$7,060
39	-	\$6,786	\$7,060	\$7,201
40	-	\$6,922	\$7,201	\$7,345
41	-	-	\$7,345	\$7,492

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

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

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

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

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

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

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

administrative unit so long as the superintendent is entitled to at least that amount of additional State-paid salary under the rules in effect for the 1992-1993 fiscal year.

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

**SECTION 7.2.(h)**

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

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

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

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

**CENTRAL OFFICE SALARIES**

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

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

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

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

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

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

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

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

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

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

**SECTION 7.3.(f)** The Director of the Budget shall transfer from the Reserve for Compensation Increases created in this act for fiscal year 2003-2004, beginning July 1, 2003, funds necessary to provide a one-time, lump sum compensation bonus, payable at the end of the employee's first pay period after October 1, 2003, of five hundred fifty dollars (\$550.00) for all permanent full-time personnel paid from the Central Office Allotment. The State Board of Education shall allocate these funds to local school administrative units. The local boards of education shall establish guidelines for providing their salary increases to these personnel.

**NONCERTIFIED PERSONNEL**

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

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

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

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

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

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

**SUPPLEMENTAL FUNDING IN LOW-WEALTH COUNTIES**

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

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

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

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

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

2. Value of property of public service companies, determined in accordance with Article 23 of Chapter 105 of the General Statutes, and
  3. Personal property value for the county.
- (7) "County-adjusted property tax base per square mile" means the county-adjusted property tax base divided by the number of square miles of land area in the county.
  - (8) "County wealth as a percentage of State average wealth" shall be computed as follows:
    - a. Compute the percentage that the county per capita income is of the State per capita income and weight the resulting percentage by a factor of five-tenths,
    - b. Compute the percentage that the anticipated total county revenue availability per student is of the anticipated State average revenue availability per student and weight the resulting percentage by a factor of four-tenths,
    - c. Compute the percentage that the county-adjusted property tax base per square mile is of the State-adjusted property tax base per square mile and weight the resulting percentage by a factor of one-tenth,
    - d. Add the three weighted percentages to derive the county wealth as a percentage of the State average wealth.
  - (9) "Effective county tax rate" means the actual county tax rate multiplied by a weighted average of the three most recent annual sales assessment ratio studies.
  - (10) "Effective State average tax rate" means the average of effective county tax rates for all counties.
  - (10a) "Local current expense funds" means the most recent county current expense appropriations to public schools, as reported by local boards of education in the audit report filed with the Secretary of the Local Government Commission pursuant to G.S. 115C-447.
  - (11) "Per capita income" means the average for the most recent three years for which data are available of the per capita income according to the most recent report of the United States Department of Commerce, Bureau of Economic Analysis, including any reported modifications for prior years as outlined in the most recent report.
  - (12) "Sales assessment ratio studies" means sales assessment ratio studies performed by the Department of Revenue under G.S. 105-289(h).
  - (13) "State average current expense appropriations per student" means the most recent State total of county current expense appropriations to public schools, as reported by local boards of education in the audit report filed with the Secretary of the Local Government Commission pursuant to G.S. 115C-447.
  - (14) "State average adjusted property tax base per square mile" means the sum of the county-adjusted property tax bases for all counties divided by the number of square miles of land area in the State.

- (14a) "Supplant" means to decrease local per student current expense appropriations from one fiscal year to the next fiscal year.
- (15) "Weighted average of the three most recent annual sales assessment ratio studies" means the weighted average of the three most recent annual sales assessment ratio studies in the most recent years for which county current expense appropriations and adjusted property tax valuations are available. If real property in a county has been revalued one year prior to the most recent sales assessment ratio study, a weighted average of the two most recent sales assessment ratios shall be used. If property has been revalued the year of the most recent sales assessment ratio study, the sales assessment ratio for the year of revaluation shall be used.

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

membership of all local school administrative units located within the county is from 3,175 to 4,000 students. The allocation formula shall:

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

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

**SECTION 7.7.(b)** Nonsupplant Requirement. – A county in which a local school administrative unit receives funds under this section shall use the funds to supplement local current expense funds and shall not supplant local current expense funds. For the 2003-2005 fiscal biennium, the State Board of Education shall not allocate funds under this section to a county found to have used these funds to supplant local per student current expense funds. The State Board of Education shall make a finding that a county has used these funds to supplant local current expense funds in the prior year, or the year for which the most recent data are available, if:

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

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

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

amount it received for the prior fiscal year. For the second year of ineligibility, it shall receive one-half of that amount.

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

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

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

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

**SECTION 7.7.(f)** Use of Funds. – Local boards of education are encouraged to use at least twenty percent (20%) of the funds they receive pursuant to this section to improve the academic performance of children who are performing at Level I or II on either reading or mathematics end-of-grade tests in grades 3-8 and children who are performing at Level I or II on the writing tests in grades 4 and 7. Local boards of education shall report to the State Board of Education on an annual basis on funds used for this purpose, and the State Board shall report this information to the Joint Legislative Education Oversight Committee. These reports shall specify how these funds were targeted and used to implement specific improvement strategies of

each local school administrative unit and its schools such as teacher recruitment, closing the achievement gap, improving student accountability, addressing the needs of at-risk students, and establishing and maintaining safe schools.

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

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

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

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

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

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

- (1) The sum of six million ninety-three thousand one hundred eighty-one dollars (\$6,093,181) for the 2003-2004 and 2004-2005 fiscal years shall be used to reduce class size at each of these schools to ensure that no class kindergarten through third grade has more than 15 students;
- (2) The sum of two million two hundred sixty-six thousand twenty-six dollars (\$2,266,026) for the 2003-2004 and 2004-2005 fiscal years shall be used to extend all teachers' contracts at these schools for a total of 10 days, with five days for staff development, including staff development on methods to individualize instruction in smaller

classes, and preparation for the 2003-2004 and 2004-2005 school years, and five additional days of instruction with related costs for other than teachers' salaries; and

- (3) The sum of one million seven hundred seventy-five thousand four hundred dollars (\$1,775,400) for the 2003-2004 and 2004-2005 fiscal years shall be used to provide one additional instructional support position at each priority school.

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

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

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

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

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

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

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

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

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

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

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

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

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

#### **CHILDREN WITH DISABILITIES**

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

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

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

**SECTION 7.14.** The State Board of Education shall allocate funds for academically or intellectually gifted children on the basis of eight hundred eighty-four dollars and fifty-five cents (\$884.55) per child. A local school administrative unit shall receive funds for a maximum of four percent (4%) of its 2003-2004 allocated average

daily membership, regardless of the number of children identified as academically or intellectually gifted in the unit. The State Board shall allocate funds for no more than 53,712 children for the 2003-2004 school year.

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

#### **STUDENTS WITH LIMITED ENGLISH PROFICIENCY**

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

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

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

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

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

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

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

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

**SECTION 7.16.(a)** The State Board of Education shall use funds appropriated for State Aid to Local School Administrative Units for the 2003-2004 fiscal year to provide incentive funding for schools that met or exceeded the projected

levels of improvement in student performance during the 2002-2003 school year, in accordance with the ABCs of Public Education Program. In accordance with State Board of Education policy:

- (1) Incentive awards in schools that achieve higher than expected improvements may be up to:
  - a. One thousand five hundred dollars (\$1,500) for each teacher and for certified personnel; and
  - b. Five hundred dollars (\$500.00) for each teacher assistant.
- (2) Incentive awards in schools that meet the expected improvements may be up to:
  - a. Seven hundred fifty dollars (\$750.00) for each teacher and for certified personnel; and
  - b. Three hundred seventy-five dollars (\$375.00) for each teacher assistant.

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

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

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

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

#### **LEA ASSISTANCE PROGRAM**

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

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

**SECTION 7.18.(a)** Funds appropriated for the 2003-2004 and 2004-2005 fiscal years for Student Accountability Standards shall be used to assist students to perform at or above grade level in reading and mathematics in grades 3-8 as measured



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

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

Local boards of education are encouraged to use federal funds such as Title I Comprehensive School Reform Development Funds and to examine the use of State funds to ensure that every student is performing at or above grade level in reading and mathematics.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Qualified first-year lateral entry candidates who are required by federal law to obtain certification before contracting to teach for a fourth year may be granted a provisional teaching certificate for no more than three years. Other qualified lateral entry candidates may be granted a provisional teaching certificate for no more than five years and shall be required to obtain certification before contracting for a sixth year of service with any local administrative unit in this State. The State Board of Education shall ensure that the institutions of higher learning in the State, including community colleges, that are providing training to lateral entry candidates shall provide that training in a uniform and consistent manner that enables lateral entry candidates to obtain certification in accordance with the requirements of the No Child Left Behind Act of 2001 while working as full-time teachers.

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

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

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

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

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

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

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

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

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

**LITIGATION RESERVE FUNDS**

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

**LOCAL EDUCATION AGENCY FLEXIBILITY**

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

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

For fiscal years 2003-2004 and 2004-2005, the General Assembly urges local school administrators to make every effort to reduce spending whenever and wherever such budget reductions are appropriate as long as the targeted reductions do not directly impact classroom services or any services for students at risk or children with special needs, including those services or supports that are called for in students' Personal Education Plans (PEP) and/or Individual Education Plans (IEP). If reductions to the allotment categories listed in this paragraph are necessary in order to meet the reduction target, the local board of education shall submit an explanation of the anticipated impact of the reductions to student services along with the budget reductions to the Department of Public Instruction. By August 15, 2004, for fiscal year 2005-2006 and subsequent fiscal years, the State Board of Education shall determine the changes to the allotment categories to make such reductions permanent. Notwithstanding other provisions of law, the State Board of Education has the authority to reduce the proposed funding level of any allotment category in the State Public School Fund or the Department of Public Instruction in order to carry out the requirements of this section to make changes to the proposed continuation budget for the 2005-2007 fiscal biennium. The changes proposed

by the State Board of Education shall be subject to the approval of the General Assembly.

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

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

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

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

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

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

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

**EXPENDITURES FOR DRIVING ELIGIBILITY CERTIFICATES**

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

**DISCREPANCIES BETWEEN ANTICIPATED AND ACTUAL ADM**

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

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

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

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

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

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

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

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

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

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

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

**SECTION 7.30.(c)** The Winston-Salem/Forsyth, Charlotte/Mecklenburg, and Wake County Public School systems may continue with their existing pilot mentor programs, but shall submit plans as required in subsection (a) of this section. These three local boards of education shall report as required in subsection (d) of this section.

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

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

#### **EXPLORNET AUDIT**

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

#### **SCHOOL NURSE SERVICES**

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

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

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

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

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

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

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

**SECTION 7.34.** Local boards of education may use up to ten percent (10%) of State funds allocated for staff development to contract with Regional Education Services Alliances without such funds being subject to the provisions of G.S. 115C-105.30.

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

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

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

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

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

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

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

#### **VOCATIONAL EDUCATION FUNDING**

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



education budget reductions for the 2003-2005 biennium in the seventh grade before making reductions to other grades.

## REVIEW OF TEACHER CERTIFICATION PROCESS

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

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

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

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

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

- (9) Examine the effect of the certification programs on teacher retention, using valid evidence; and
- (10) Examine the impact the certification programs have on improving teaching practices, using valid evidence.

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

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

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

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

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

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

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

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

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

...

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

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

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

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

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

- (1) Respect for school personnel. – In the school environment, respect includes holding teachers, school administrators, and all school personnel in high esteem and demonstrating in words and deeds that all school personnel deserve to be treated with courtesy and proper deference.
- (2) Responsibility for school safety. – Helping to create a harmonious school atmosphere that is free from threats, weapons, and violent or disruptive behavior; cultivate an orderly learning environment in which students and school personnel feel safe and secure; and encourage the resolution of conflicts and disagreements through peaceful means including peer mediation. Instruction in this responsibility should include a consistent and age-appropriate antiviolence message and a conflict resolution component for students in kindergarten through twelfth grade. These messages should include media-awareness education to help children recognize stereotypes and messages portraying violence.
- (3) Service to others. – Engaging in meaningful service to their schools and their communities. Schools may teach service-learning by (i) incorporating it into their standard curriculum, or (ii) involving a classroom of students or some other group of students in one or more hands-on community-service projects. All schools are encouraged to provide opportunities for student involvement in community service or service-learning projects.
- (4) Good citizenship. – Obeying the laws of the nation and this State; abiding by school rules; and understanding the rights and responsibilities of a member of a republic."

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

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

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

performance for each school. The "closing the achievement gap" component shall measure and compare the performance of each subgroup in a school's population to ensure that all subgroups as identified by the State Board are meeting State standards.

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

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

#### **VISITING INTERNATIONAL FACULTY**

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

### **PART VIII. COMMUNITY COLLEGES**

#### **COMMUNITY COLLEGE FUNDING FLEXIBILITY**

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

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

#### **FLEXIBILITY TO IMPLEMENT BUDGET REDUCTIONS**

**SECTION 8.2.** Notwithstanding G.S. 143-23 or any other provision of law, the State Board of Community Colleges may use salary reserve funds and other funds, and may transfer funds within the Community College System Office continuation budget to the extent necessary to implement budget reductions for the 2003-2004 fiscal year.

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

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

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

Management and the Fiscal Research Division on all reductions made by the colleges to achieve this reduction.

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

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

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

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

#### **SUMMER SCHOOL FUNDING**

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

#### **CARRYFORWARD FOR EQUIPMENT**

**SECTION 8.6.(a)** Subject to cash availability, the North Carolina Community Colleges System may carry forward an amount not to exceed five million dollars (\$5,000,000) of the operating funds held in reserve that were not reverted in fiscal year 2002-2003 to be reallocated to the State Board of Community Colleges' Equipment Reserve Fund. These funds should be distributed to colleges consistent with G.S. 115D-31.

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

#### **HOSIERY CENTER FUNDS**

**SECTION 8.7.** Notwithstanding any other provision of law, all fees collected by the Hosiery Technology Center of Catawba Valley Community College for the testing of hosiery products shall be retained by the Center and used for the

operations of the Center. Purchases made by the Center using these funds are not subject to the provisions of Article 3 of Chapter 143 of the General Statutes.

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

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

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

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

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

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

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

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

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

**SECTION 8.11.** Three million two hundred fifty thousand dollars (\$3,250,000) in the Reserve for Compensation Increases in Section 2.1 of this act shall be used to increase faculty and professional staff salaries by an average of one-half percent (0.5%). These increases are in addition to the one-time, lump sum compensation bonus provided by Section 30.11 of this act, and shall be calculated on the average salaries prior to the issuance of the compensation bonus. Colleges may provide additional increases from funds available.

The State Board of Community Colleges shall adopt rules to ensure that these funds are used only to move faculty and professional staff to the respective national averages. The funds shall not be transferred by the State Board or used for any other budget purpose by the community colleges.

#### **EVALUATION OF THE COMPREHENSIVE ARTICULATION AGREEMENT**

**SECTION 8.12.(a)** The General Assembly finds that (i) there is a general sentiment expressed by students that the Comprehensive Articulation Agreement adopted by the Board of Governors of The University of North Carolina and the State Board of Community Colleges should be improved and (ii) over the past five years, there have been many suggestions for improving the Comprehensive Articulation Agreement as well as recommendations for new directions in which the Comprehensive Articulation Agreement should be developed.

**SECTION 8.12.(b)** The Joint Legislative Education Oversight Committee shall contract with a credible independent source, individual, or organization to study the Comprehensive Articulation Agreement. The contractor shall not be (i) a current employee of The University of North Carolina, Office of the President, the North Carolina Community College System, or any of the North Carolina independent schools/colleges participating in the Comprehensive Articulation Agreement or (ii) a current or past member of the Transfer Advisory Committee.

**SECTION 8.12.(c)** The study by the contractor shall:

- (1) Be consistent with the standards of the Southern Association of Colleges and Schools, Commission on Colleges, on educational quality and institutional effectiveness;
- (2) Be designed to provide an accurate and credible assessment of the effectiveness of the Comprehensive Articulation Agreement during its initial five years of existence relative to the intent of its authorizing legislation;
- (3) Be based on qualitative as well as quantitative information and data;
- (4) Take no more than four months from initiation to completion; and
- (5) Include input from college transfer students, counselors, faculty, and administration from both systems.

**SECTION 8.12.(d)** The contractor's report shall:

- (1) Adequately reflect the study's methodology, sources of information, purpose and scope, analyses, evaluative assessments, recommendations, and conclusions;
- (2) State any known deficiencies or limitations of the study;
- (3) Be presented in both a printed form and an electronic version; and
- (4) Provide recommendations for improving the Comprehensive Articulation Agreement.

**SECTION 8.12.(e)** The contractor shall submit a written progress report every four weeks to the Joint Legislative Education Oversight Committee, the vice-president of academic affairs of The University of North Carolina, Office of the President, the vice-president of academic affairs of the North Carolina Community College System Office, and the cochairs of the Transfer Advisory Committee. The contractor shall complete the report within four months. At the completion of the study, the contractor shall submit a draft of the report document to the Joint Legislative Education Oversight Committee, the vice-president of academic affairs of The University of North Carolina, Office of the President, the vice-president of academic affairs of the North Carolina Community College System Office, and the cochairs of the Transfer Advisory Committee for review.

**SECTION 8.12.(f)** Within 30 days of completing the study, the contractor shall submit a final report to the Joint Legislative Education Oversight Committee, the vice-president of academic affairs of The University of North Carolina, Office of the President, the vice-president of academic affairs of the North Carolina Community College System Office, and the cochairs of the Transfer Advisory Committee. The Joint Legislative Education Oversight Committee, vice-president of academic affairs of The University of North Carolina, Office of the President, and the vice-president of academic affairs of the North Carolina Community College System Office may, in their discretion, schedule a formal presentation of the report when it is submitted.

**SECTION 8.12.(g)** The University of North Carolina, Office of the President, and the North Carolina Community College System shall provide the contractor with access to and use of information databases to the extent that such access and use is necessary for the study and does not violate legal and ethical codes or create disruptions of normal operations.

**SECTION 8.12.(h)** The University of North Carolina, Office of the President, and the North Carolina Community College System shall each transfer thirty-five thousand dollars (\$35,000) to the Joint Legislative Education Oversight Committee to carry out this study.

#### **AUTOMOTIVE TRAINING INCENTIVE**

**SECTION 8.13.** Of the funds appropriated in this act for the State Board of Community Colleges for the 2003-2004 fiscal year, the sum of one hundred twenty-five thousand dollars (\$125,000) shall be used for a nonrecurring grant to the North Carolina Community College Foundation provided that a like amount is provided by the North Carolina Automotive Dealers Association to match these funds on a dollar-for-dollar basis. The North Carolina Community College Foundation shall use these funds to provide incentive programming at the colleges that offer Automotive Systems Technology. The incentive programming shall consist of one or more of the following:

- (1) Increasing awareness of careers available in the franchised automobile and truck industry in North Carolina;
- (2) Increasing awareness within North Carolina's middle school and high school guidance counselors and workforce development coordinators;
- (3) Increasing public awareness of teaching opportunities in North Carolina's high schools and community colleges in the area of automotive technology;
- (4) Increasing opportunities in continuing education for automotive technology high school and community college instructors;
- (5) Providing a program coordinator to work with the franchised car and truck dealers and with community college and high school automotive professionals to ensure that the automotive curriculum is uniform and appropriate; and
- (6) Increasing resources to assist high schools and community colleges in gaining and maintaining certification for their respective automotive technology programs.

#### **COMMUNITY COLLEGES TRUST FUND**

**SECTION 8.14.(a)** Article 3 of Chapter 115D of the General Statutes is amended by adding a new section to read:

**"§ 115D-42. North Carolina Community Colleges Instructional Trust Fund.**

(a) There is established the North Carolina Community Colleges Instructional Trust Fund. The purpose of this Trust Fund is to supplement the funds raised by community college foundations to enhance the academic missions of community colleges.

(b) The State Board of Community Colleges is authorized to allocate funds from the Instructional Trust Fund to the community colleges and to adopt rules to implement the provisions of this section.

(c) State funds from the Trust Fund and matching funds raised by foundations shall be used by the board of trustees of a community college only to enhance the



academic mission of the college. State funds shall be used only for scholarships or financial aid for needy students.

Expenditures of the matching funds raised by foundations shall directly relate to education and shall be used only for:

- (1) Resource center materials;
- (2) Professional development of instructional faculty and staff in cases in which (i) professional development will improve the quality of performance provided by the employee and (ii) the employee makes a commitment to remain at the college for a prescribed period of time;
- (3) Professional development of instructional faculty and staff in cases in which professional development is necessary to enhance the employee's ability to meet newly mandated instructional or performance requirements; and
- (4) Other purposes authorized by the State Board of Community Colleges that are consistent with the college's mission.

(d) Every two dollars (\$2.00) raised by the community college foundations for the Trust Fund during the 2003-2004 fiscal year shall be matched with one dollar (\$1.00) of State funds. The maximum matching contribution from the State shall not exceed twenty-five thousand dollars (\$25,000) for each of the 58 community colleges. These funds shall be reserved for each community college and held in escrow in the Trust Fund. A community college foundation may apply for matching funds after it raises twenty-five thousand dollars (\$25,000). The chairperson of each community college foundation shall certify to the North Carolina Community College System Office that (i) new funds have been raised by the community college foundation to match the amount of funds held in escrow in the Trust Fund, (ii) the amount raised by the community college foundation has not been used previously for matching purposes, (iii) the amount raised by the college shall be used only as provided in subsection (c) of this section, and (iv) matching State funds shall be used only for scholarships or financial aid for needy students.

(e) The State Board of Community Colleges may request an audit of the State funds expended under this section from any community college foundation."

**SECTION 8.14.(b)** There is appropriated from the Escheat Fund to the State Board of Community Colleges the sum of one million four hundred fifty thousand dollars (\$1,450,000) for the 2003-2004 fiscal year to provide matching State funds for the Community Colleges Instructional Trust Fund established in subsection (a) of this section.

## **FOCUSED INDUSTRIAL TRAINING FUNDS**

**SECTION 8.15.** Notwithstanding any other provision of law, for the 2003-2004 fiscal year only, the State Board of Community Colleges may transfer up to one million four hundred fifty thousand dollars (\$1,450,000) from New and Expanding Industry Training to Focused Industrial Training.

## **TUITION MODIFICATIONS**

**SECTION 8.16.(a)** G.S. 116-143.3 reads as rewritten:

"§ 116-143.3. Tuition of **active duty personnel in the armed services.**

(a) Definitions. – For purposes of this section the following definitions apply in this section:

- (1) The term "armed services" shall mean the United States Air Force, Army, Coast Guard, Marine Corps, and Navy; the North Carolina National Guard; and any Reserve Component of the foregoing.
- (2) The term "abode" shall mean the place where a person actually lives, whether temporarily or permanently; the term "abide" shall mean to live in a given place.
- (3) The term "tuition assistance" shall be used as defined in the United States Department of Defense Directive 1322.8, implementing 10 U.S.C. § 2007.

(b) ~~Any active duty member of the armed services qualifying for admission to an institution of higher education a community college under the jurisdiction of the State Board of Community Colleges as defined in G.S. 116-143.1(a)(3) but not qualifying as a resident for tuition purposes under G.S. 116-143.1 shall be charged the out-of-State tuition rate; provided, that the out-of-State tuition shall be forgiven to the extent that the out-of-State tuition rate exceeds any amounts payable to the institution or the service member by the service member's employer by reason of enrollment pursuant to such admission while the member is abiding in this State incident to active military duty, plus the amount that represents the percentage of the out-of-State tuition rate paid to the institution or the service member by the service member's employer multiplied by the in-State tuition rate and then subtracted from the in-State tuition rate.~~

(b1) Any active duty member of the armed services qualifying for admission to a constituent institution of The University of North Carolina but not qualifying as a resident for tuition purposes under G.S. 116-143.1 shall be charged the maximum available tuition assistance as the required payment for tuition and mandatory fees not to exceed the established out-of-state tuition and mandatory fee rates. The Board of Governors of The University of North Carolina shall determine which mandatory fees apply to active duty members of the armed services attending The University of North Carolina.

(b2) Any active duty member of the armed services who does not qualify for any payment by the member's employer pursuant to subsections (b) or (b1) of this section shall be eligible to be charged the in-State tuition rate and shall pay the full amount of the in-State tuition rate and applicable mandatory fees.

(c) Any dependent relative of a member of the armed services who is abiding in this State incident to active military duty, as defined by the Board of Governors of The University of North Carolina and by the State Board of Community Colleges while sharing the abode of that member shall be eligible to be charged the in-State tuition rate, if the dependent relative qualifies for admission to an institution of higher education as defined in G.S. 116-143.1(a)(3). The dependent relatives shall comply with the requirements of the Selective Service System, if applicable, in order to be accorded this benefit. In the event the member of the armed services removes his abode from North Carolina during an academic year, the dependent relative shall continue to be eligible for the in-State tuition rate during the remainder of that academic year.

(d) The burden of proving entitlement to the benefit of this section shall lie with the applicant therefor.

(e) A person charged less than the ~~out-of-State~~ out-of-state tuition rate solely by reason of this section shall not, during the period of receiving that benefit, qualify for or be the basis of conferring the ~~benefits~~ benefit of G.S. 116-143.1(g), (h), (i), (j), (k), or (1)."

**SECTION 8.16.(b)** G.S. 115D-39 reads as rewritten:

**"§ 115D-39. Student tuition and fees.**

(a) The State Board of Community Colleges shall fix and regulate all tuition and fees charged to students for applying to or attending any institution pursuant to this Chapter.

The receipts from all student tuition and fees, other than student activity fees, shall be State funds and shall be deposited as provided by regulations of the State Board of Community Colleges.

The legal resident limitation with respect to tuition, set forth in G.S. 116-143.1 and G.S. 116-143.3, shall apply to students attending institutions operating pursuant to this Chapter; provided, however, that when an employer other than the armed services, as that term is defined in G.S. 116-143.3, pays tuition for an employee to attend an institution operating pursuant to this Chapter and when the employee works at a North Carolina business location, the employer shall be charged the in-State tuition rate; provided further, however, a community college may charge in-State tuition to up to one percent (1%) of its out-of-state students, rounded up to the next whole number, to accommodate the families transferred by business, the families transferred by industry, or the civilian families transferred by the military, consistent with the provisions of G.S. 116-143.3, into the State. Notwithstanding these requirements, a refugee who lawfully entered the United States and who is living in this State shall be deemed to qualify as a domiciliary of this State under G.S. 116-143.1(a)(1) and as a State resident for community college tuition purposes as defined in G.S. 116-143.1(a)(2). Also, a nonresident of the United States who has resided in North Carolina for a 12-month qualifying period and has filed an immigrant petition with the United States Immigration and Naturalization Service shall be considered a State resident for community college tuition purposes.

(b) In addition, any person lawfully admitted to the United States who satisfied the qualifications for assignment to a public school set out under G.S. 115C-366 and graduated from the public school to which the student was assigned shall also be eligible for the State resident community college tuition rate. This subsection does not make a person a resident of North Carolina for any other purpose."

**TUITION MODIFICATIONS/NONPROFIT SPONSORSHIP OF COMMUNITY COLLEGE STUDENT**

**SECTION 8.16A.(a)** G.S. 115D-39 is amended by adding a new subsection to read:

"(c) In addition, a person sponsored under this subsection who is lawfully admitted to the United States is eligible for the State resident community college tuition rate. For purposes of this subsection, a North Carolina nonprofit entity is a charitable or religious corporation as defined in G.S. 55A-1-40 that is incorporated in North Carolina and that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code, or a civic league incorporated in North Carolina under Chapter 55A of the General Statutes that is exempt from taxation under section 501(c)(4) of the Internal Revenue Code. A nonresident of the United States is sponsored by a North Carolina nonprofit entity if the student resides in North Carolina while attending the community college and the North Carolina nonprofit entity provides a signed affidavit to the community college verifying that the entity accepts financial responsibility for the student's tuition and any other required educational fees. Any North Carolina nonprofit entity that sponsors a nonresident of the United States under this subsection may sponsor no more

than five nonresident students annually under this subsection. This subsection does not make a person a resident of North Carolina for any other purpose."

**SECTION 8.16A.(b)** The State Board of Community Colleges shall report to the Senate Committee on Appropriations and the House of Representatives Committee on Appropriations in April of 2004 on the implementation of this section during the 2003-2004 academic year.

## **PART IX. UNIVERSITIES**

### **UNC FLEXIBILITY GUIDELINES**

**SECTION 9.1.** The Chancellor of each constituent institution shall report to the Board of Governors of The University of North Carolina on the reductions made to the General Fund budget codes in order to meet the reduction reserve amounts for that institution. The President of The University of North Carolina shall report to the Board of Governors of The University of North Carolina on the reductions made to the General Fund budget codes controlled by the Board in order to meet the reduction reserve amounts for those entities. The Board of Governors shall make a summary report to the Office of State Budget and Management and the Fiscal Research Division by December 31, 2003, on all reductions made by these entities and constituent institutions in order to reduce the budgets by the targeted amounts.

### **ESCHEAT FUNDS**

**SECTION 9.2.(a)** There is appropriated from the Escheat Fund to the Board of Governors of The University of North Carolina the sum of twenty-three million seven hundred fifty thousand dollars (\$23,750,000) for each year of the 2003-2005 fiscal biennium and to the State Board of Community Colleges the sum of ten million two hundred sixty-two thousand eight hundred six dollars (\$10,262,806) for each year of the 2003-2005 fiscal biennium. These funds shall be allocated by the State Educational Assistance Authority for need-based student financial aid in accordance with G.S. 116B-7 and this act.

**SECTION 9.2.(b)** The Director of the Budget shall include General Fund appropriations in the amounts provided in subsection (a) of this section in the proposed 2005-2007 fiscal biennium continuation budget for the purposes provided in G.S. 116B-7.

**SECTION 9.2.(c)** The State Education Assistance Authority (SEAA) shall perform all of the administrative functions necessary to implement the program of financial aid. The SEAA shall conduct periodic evaluations of expenditures of the scholarship programs to determine if allocations are utilized to ensure access to institutions of higher learning and to meet the goals of the respective programs. The SEAA may make recommendations for redistribution of funds to The University of North Carolina and the President of the Community College System regarding their respective scholarship programs, who then may authorize redistribution of unutilized funds for a particular fiscal year.

**SECTION 9.2.(d)** All obligations to students for uses of the funds set out in subsection (a) of this section that were made prior to the effective date of this section shall be fulfilled as to students who remain eligible under the provisions of the respective programs.

**UNC BOND PROJECT MODIFICATIONS**

**SECTION 9.3.(a)** Pursuant to Section 2(b) of S.L. 2000-3, the General Assembly finds that it is in the best interest of the State to respond to current educational and research program requirements at Elizabeth City State University by substituting a project entitled "Campus Infrastructure Improvements" for "Doles Residence Hall – Comprehensive Renovation" as contained in Section 2(a) of S.L. 2000-3, as a residence hall that has been provided for from housing receipts and campus infrastructure improvements will allow energy conservation and savings. Section 2(a) of S.L. 2000-3 is therefore amended in the portion under Elizabeth City State University by deleting "Doles Residence Hall – Comprehensive Renovation...\$1,722,500" and by substituting "Campus Infrastructure Improvements...\$1,722,500".

**SECTION 9.3.(a1)** With the approval of the Board of Governors of The University of North Carolina, Elizabeth City State University may transfer funds from bond projects for planning facilities needed for the Joint Pharmacy Program.

**SECTION 9.3.(b)** Pursuant to Section 2(b) of S.L. 2000-3, the General Assembly finds that it is in the best interest of the State to respond to current educational and research program requirements at North Carolina Central University, due to increasing enrollment growth, by substituting a project entitled "Pearson Cafeteria – Expansion" for "Pearson Cafeteria – Comprehensive Renovation" as contained in Section 2(a) of S.L. 2000-3, by deleting a project entitled "Old Senior Dorm – Conversion to Academic Use" as contained in Section 2(a) of S.L. 2000-3 and by transferring the funds of two million one hundred thirty thousand seven hundred dollars (\$2,130,700) from the project entitled "Old Senior Dorm – Conversion to Academic Use", as contained in Section 2(a) of S.L. 2000-3, and by transferring a portion of the funds from a project entitled "Farrison-Newton Building – Comprehensive Renovation of Classroom Building", as contained in Section 2(a) of S.L. 2000-3, to this substitute project. Section 2(a) of S.L. 2000-3 is therefore amended as follows:

- (1) In the portion entitled "Pearson Cafeteria – Comprehensive Renovation" under North Carolina Central University, by deleting "Comprehensive Renovation" and by substituting "Expansion" and by adding \$7,730,700 for the project so that it reads "Pearson Cafeteria – Expansion...\$8,994,300".
- (2) In the portion under North Carolina Central University, by deleting "Old Senior Dorm – Conversion to Academic Use...\$2,130,700".
- (3) In the portion entitled "Farrison-Newton Building – Comprehensive Renovation of Classroom Building" under North Carolina Central University, by decreasing by \$5,600,000 the \$7,048,700 for the project so that it reads "Farrison-Newton Building – Comprehensive Renovation of Classroom Building...\$1,448,700".

**SECTION 9.3.(b1)** With the approval of The Board of Governors of The University of North Carolina, North Carolina Central University may transfer funds from one bond project to another to make infrastructure improvements and repairs within buildings for the remediation of mold on campus.

**SECTION 9.3.(c)** Pursuant to Section 2(b) of S.L. 2000-3, the General Assembly finds that it is in the best interest of the State to respond to current educational and research program requirements at the University of North Carolina at

Asheville by substituting a project entitled "Carmichael Hall Classroom Building – Demolition and New Construction" for "Carmichael Hall Classroom Building – Comprehensive Renovation" as contained in Section 2(a) of S.L. 2000-3, as it has been determined that it is more cost-effective to replace this facility than to renovate it. Section 2(a) of S.L. 2000-3 is therefore amended in the portion under the University of North Carolina at Asheville by deleting "Carmichael Hall Classroom Building – Comprehensive Renovation" and by adding "Carmichael Hall Classroom Building – Demolition and New Construction".

**SECTION 9.3.(d)** Pursuant to Section 2(b) of S.L. 2000-3, the General Assembly finds that it is in the best interest of the State to respond to current educational and research program requirements at the University of North Carolina at Pembroke, due to enrollment growth higher than projected, by adding a project entitled "General Purpose Classroom Building" to Section 2(a) of S.L. 2000-3 and by transferring a portion of the funds from the project entitled "Residence/Dining Hall – Replacement of Jacobs & Wellons Halls", as contained in Section 2(a) of S.L. 2000-3, to this substitute project. Section 2(a) of S.L. 2000-3 is therefore amended in the portion under the University of North Carolina at Pembroke by substituting "Residence/Dining Hall – Replacement of Jacobs & Wellons Halls...\$325,300" and by adding "General Purpose Classroom Building...\$7,375,000".

**SECTION 9.3.(e)** Pursuant to Section 2(b) of S.L. 2000-3, the General Assembly finds that it is in the best interest of the State to respond to current educational and research program requirements at Winston-Salem State University by substituting a project entitled "Anderson Center – Comprehensive Renovation" for "Anderson Center – Comprehensive Renovation & Change of Use for Early Childhood/Gerontology Programs", as contained in Section 2(a) of S.L. 2000-3, by adding a project entitled "Coltrane Hall – Renovation to House Gerontology", by transferring a portion of the funds from the project entitled "Anderson Center – Comprehensive Renovation & Change of Use for Early Childhood/Gerontology Programs", as contained in Section 2(a) of S.L. 2000-3, to the new project entitled "Coltrane Hall – Renovation to House Gerontology", by adding a project entitled "New Facility for the Early Childhood Program", and by transferring a portion of the funds from the project entitled "Anderson Center – Comprehensive Renovation & Change of Use for Early Childhood/Gerontology Programs", as contained in Section 2(a) of S.L. 2000-3, to the new project entitled "New Facility for the Early Childhood Program". Section 2(a) of S.L. 2000-3 is therefore amended as follows:

- (1) In the portion entitled "Anderson Center – Comprehensive Renovation & Change of Use for Early Childhood/Gerontology Programs" under Winston-Salem State University, by deleting "& Change of Use for Early Childhood/Gerontology Programs" and by decreasing by \$1.9 million the \$6,917,900 for the project so that it reads "Anderson Center – Comprehensive Renovation...\$5,017,900".
- (2) In the portion under Winston-Salem State University, by adding a new project "Coltrane Hall – Renovation to House Gerontology...\$400,000".
- (3) In the portion under Winston-Salem State University, by adding a new project "New Facility for the Early Childhood Program...\$1,500,000".

**SECTION 9.3.(f)** Pursuant to Section 2(b) of S.L. 2000-3, the General Assembly finds that it is in the best interest of the State to respond to current educational and research program requirements at Winston-Salem State University by

substituting a project entitled "New Student Health Center" for "Health Center Bldg. & Old Nursing Bldg. – Comprehensive Renovation for Student Health", as contained in Section 2(a) of S.L. 2000-3, and by using the existing project budget for a new health facility, as it has been determined that the two existing buildings are in poor condition and have been recommended for future demolition. Section 2(a) of S.L. 2000-3 is therefore amended in the portion under Winston-Salem State University by deleting "Health Center Bldg. and Old Nursing Bldg. – Comprehensive Renovation for Student Health" and by substituting "New Student Health Center".

**SECTION 9.3.(g)** Nothing in this section is intended to supersede any other requirement of law or policy for approval of the substituted capital improvement projects.

#### **SCHOOL OF SCIENCE MATH/COLLEGE SCHOLARSHIPS**

**SECTION 9.4.(a)** Article 29 of Chapter 116 of the General Statutes is amended by adding a new section to read:

**"§ 116-238.1. Full tuition grant for graduates who attend a State university.**

(a) There is granted to each State resident who graduates from the North Carolina School of Science and Mathematics and who enrolls as a full-time student in a constituent institution of The University of North Carolina a sum to be determined by the General Assembly as a tuition grant. The tuition grant shall be for four consecutive academic years and shall cover the tuition cost at the constituent institution in which the student is enrolled. The tuition grant shall be distributed to the student as provided by this section.

(b) The tuition grants provided for in this section shall be administered by the State Education Assistance Authority pursuant to rules adopted by the State Education Assistance Authority not inconsistent with this section. The State Education Assistance Authority shall not approve any grant until it receives proper certification from the appropriate constituent institution that the student applying for the grant is an eligible student. Upon receipt of the certification, the State Education Assistance Authority shall remit at the times it prescribes the grant to the constituent institution on behalf, and to the credit, of the student.

(c) In the event a student on whose behalf a grant has been paid is not enrolled and carrying a minimum academic load as of the tenth classroom day following the beginning of the school term for which the grant was paid, the institution shall refund the full amount of the grant to the State Education Assistance Authority.

(d) In the event there are not sufficient funds to provide each eligible student with a full grant:

(1) The Board of Governors of The University of North Carolina, with the approval of the Office of State Budget and Management, may transfer available funds to meet the needs of the programs provided by subsections (a) and (b) of this section; and

(2) Each eligible student shall receive a pro rata share of funds then available for the remainder of the academic year within the fiscal period covered by the current appropriation.

(e) Any remaining funds shall revert to the General Fund."

**SECTION 9.4.(b)** This section applies to students graduating in the 2003-2004 academic year and each subsequent academic year.

**FILM INDUSTRY FEASIBILITY STUDY**

**SECTION 9.5.** The Board of Governors of The University of North Carolina shall conduct a feasibility study to assess the strategic opportunities in the arts and entertainment industry in Forsyth County and its environs in the creation of programs, facilities, job opportunities, and tourism demand related to the film industry. The study shall include, but not be limited to: (i) the development of a program in digital media, and (ii) the development of a tourist destination film industry studio backlot.

The Board of Governors shall consult with the faculty and staff of the North Carolina School of the Arts and other experts in the arts and entertainment fields in conducting the feasibility study. The Board of Governors shall report the results of the study and any recommendations the Board makes related to the study to the 2003 Regular Session of the General Assembly by April 1, 2004.

**AREA HEALTH EDUCATION CENTER (AHEC) FUNDS**

**SECTION 9.7.** Of the funds appropriated by this act to the Board of Governors of The University of North Carolina for the 2003-2004 fiscal year, the Board of Governors shall allocate the sum of twenty-four thousand dollars (\$24,000) to the Wilmington AHEC program for the 2003-2004 fiscal year and the sum of twenty-four thousand dollars (\$24,000) to the Region L. AHEC program for the 2003-2004 fiscal year to pay for information highway line charges.

**FUNDS FOR TEACCH PROGRAM**

**SECTION 9.8.** Of the funds appropriated in this act to the Board of Governors of The University of North Carolina, the sum of one hundred eighty-seven thousand dollars (\$187,000) for the 2003-2004 fiscal year and the sum of one hundred eighty-seven thousand dollars (\$187,000) for the 2004-2005 fiscal year shall be used for the Division TEACCH program at the University of North Carolina at Chapel Hill.

**NORTH CAROLINA AGRICULTURAL AND TECHNICAL STATE UNIVERSITY/ALLOCATE STATE MATCHING FUNDS FOR 2004-2005 FISCAL YEAR**

**SECTION 9.9.** Of the funds appropriated to The Board of Governors of The University of North Carolina for the 2004-2005 fiscal year the sum of one million ninety-two thousand nine hundred forty-four dollars (\$1,092,944) shall be allocated to North Carolina Agricultural and Technical State University for the 2004-2005 fiscal year to continue to match federal funds for conducting agricultural research and cooperative extension service work.

**PART X. DEPARTMENT OF HEALTH AND HUMAN SERVICES****SUBPART 1. ADMINISTRATION****PETROLEUM OVERCHARGE FUNDS ALLOCATION**

**SECTION 10.1.(a)** There is appropriated from funds and interest thereon received from the case of United States v. Exxon that remain in the Special Reserve for Oil Overcharge Funds to the Department of Health and Human Services the sum of one million dollars (\$1,000,000) for the 2003-2004 fiscal year to be allocated for the Weatherization Assistance Program.



**SECTION 10.1.(b)** Any funds remaining in the Special Reserve for Oil Overcharge Funds after the allocation made pursuant to subsection (a) of this section may be expended only as authorized by the General Assembly. All interest or income accruing from all deposits or investments of cash balances shall be credited to the Special Reserve for Oil Overcharge Funds.

#### **OFFICE OF POLICY AND PLANNING**

**SECTION 10.2.(a)** To promote coordinated policy development and strategic planning for the State's health and human services systems, the Secretary of Health and Human Services shall establish an Office of Policy and Planning from existing resources across the Department. The Director of the Office of Policy and Planning shall report directly to the Secretary and shall have the following responsibilities:

- (1) Coordinate the development of departmental policies, plans, and rules, in consultation with the Divisions of the Department.
- (2) Development of a departmental process for the development and implementation of new policies, plans, and rules.
- (3) Development of a departmental process for the review of existing policies, plans, and rules to ensure that departmental policies, plans, and rules are relevant.
- (4) Coordination and review of all departmental policies before dissemination to ensure that all policies are well-coordinated within and across all programs.
- (5) Implementation of ongoing strategic planning that integrates budget, personnel, and resources with the mission and operational goals of the Department.
- (6) Review, disseminate, monitor, and evaluate best practice models.

**SECTION 10.2.(b)** Under the direction of the Secretary of Health and Human Services, the Director of the Office of Policy and Planning shall have the authority to direct Divisions, offices, and programs within the Department to conduct periodic reviews of policies, plans, and rules and shall advise the Secretary when it is determined to be appropriate or necessary to modify, amend, and repeal departmental policies, plans, and rules. All policy and management positions within the Office of Policy and Planning are exempt positions as that term is defined in G.S. 126-5.

#### **WEATHERIZATION ASSISTANCE PROGRAM**

**SECTION 10.3.** Article 2 of Chapter 108A of the General Statutes is amended by adding the following new Part to read:

"Part 9. Weatherization Assistance Program and Heating/Air Repair and Replacement Program.

**"§ 108A-70.30. Weatherization Assistance Program and Heating/Air Repair and Replacement Program.**

The Department may administer the Weatherization Assistance Program for Low-Income Families and the Heating/Air Repair and Replacement Program functions. Nothing in this Part shall be construed as obligating the General Assembly to appropriate funds for the Program or as entitling any person to services under the Program."

**NONMEDICAID REIMBURSEMENT CHANGES**

**SECTION 10.4.** Providers of medical services under the various State programs, other than Medicaid, offering medical care to citizens of the State shall be reimbursed at rates no more than those under the North Carolina Medical Assistance Program.

The Department of Health and Human Services may reimburse hospitals at the full prospective per diem rates without regard to the Medical Assistance Program's annual limits on hospital days. When the Medical Assistance Program's per diem rates for inpatient services and its interim rates for outpatient services are used to reimburse providers in non-Medicaid medical service programs, retroactive adjustments to claims already paid shall not be required.

Notwithstanding the provisions of paragraph one, the Department of Health and Human Services may negotiate with providers of medical services under the various Department of Health and Human Services programs, other than Medicaid, for rates as close as possible to Medicaid rates for the following purposes: contracts or agreements for medical services and purchases of medical equipment and other medical supplies. These negotiated rates are allowable only to meet the medical needs of its non-Medicaid eligible patients, residents, and clients who require such services which cannot be provided when limited to the Medicaid rate.

Maximum net family annual income eligibility standards for services in these programs shall be as follows:

<u>Family Size</u>	<u>Medical Eye Care Adults</u>	<u>Rehabilitation Except DSB Over 55 Grant</u>	<u>Other</u>
1	\$4,860	\$8,364	\$4,200
2	5,940	10,944	5,300
3	6,204	13,500	6,400
4	7,284	16,092	7,500
5	7,821	18,648	7,900
6	8,220	21,228	8,300
7	8,772	21,708	8,800
8	9,312	22,220	9,300

The eligibility level for children in the Medical Eye Care Program in the Division of Services for the Blind shall be one hundred percent (100%) of the federal poverty guidelines, as revised annually by the United States Department of Health and Human Services and in effect on July 1 of each fiscal year. The eligibility level for adults 55 years of age or older who qualify for services through the Division of Services for the Blind, Independent Living Rehabilitation Program, shall be two hundred percent (200%) of the federal poverty guidelines, as revised annually by the United States Department of Health and Human Services and in effect on July 1 of each fiscal year. The eligibility level for adults in the Atypical Antipsychotic Medication Program in the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services shall be one hundred fifty percent (150%) of the federal poverty guidelines, as revised annually by the United States Department of Health and Human Services and in effect on July 1 of each fiscal year. Additionally, those adults enrolled in the Atypical Antipsychotic Medication Program who become gainfully employed may continue to be eligible to receive State support, in decreasing amounts, for the purchase of atypical antipsychotic medication and related services up to three hundred percent (300%) of the poverty level.

State financial participation in the Atypical Antipsychotic Medication Program for those enrollees who become gainfully employed is as follows:

<u>Income</u> (% of poverty)	<u>State Participation</u>	<u>Client Participation</u>
0-150%	100%	0%
151-200%	75%	25%
201-250%	50%	50%
251-300%	25%	75%
300% and over	0%	100%

The Department of Health and Human Services shall contract at, or as close as possible to, Medicaid rates for medical services provided to residents of State facilities of the Department.

#### **SENIOR CARES PROGRAM ADMINISTRATION**

**SECTION 10.5.** The Department of Health and Human Services may administer the "Senior Cares" prescription drug access program approved by the Health and Wellness Trust Fund Commission and funded from the Health and Wellness Trust Fund.

#### **PHYSICIAN SERVICES**

**SECTION 10.6.** With the approval of the Office of State Budget and Management, the Department of Health and Human Services may use funds appropriated in this act for across-the-board salary increases and performance pay to offset similar increases in the costs of contracting with private and independent universities for the provision of physician services to clients in facilities operated by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services. This offsetting shall be done in the same manner as is currently done with the constituent institutions of The University of North Carolina.

#### **LIABILITY INSURANCE**

**SECTION 10.7.(a)** The Secretary of the Department of Health and Human Services, the Secretary of the Department of Environment and Natural Resources, and the Secretary of the Department of Correction may provide medical liability coverage not to exceed one million dollars (\$1,000,000) per incident on behalf of employees of the Departments licensed to practice medicine or dentistry, on behalf of all licensed physicians who are faculty members of The University of North Carolina who work on contract for the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services for incidents that occur in Division programs, and on behalf of physicians in all residency training programs from The University of North Carolina who are in training at institutions operated by the Department of Health and Human Services. This coverage may include commercial insurance or self-insurance and shall cover these individuals for their acts or omissions only while they are engaged in providing medical and dental services pursuant to their State employment or training.

**SECTION 10.7.(b)** The coverage provided under this section shall not cover any individual for any act or omission that the individual knows or reasonably should know constitutes a violation of the applicable criminal laws of any state or the United States or that arises out of any sexual, fraudulent, criminal, or malicious act or out of any act amounting to willful or wanton negligence.

**SECTION 10.7.(c)** The coverage provided pursuant to this section shall not require any additional appropriations and shall not apply to any individual providing contractual service to the Department of Health and Human Services, the Department of Environment and Natural Resources, or the Department of Correction, with the exception that coverage may include physicians in all residency training programs from The University of North Carolina who are in training at institutions operated by the Department of Health and Human Services and licensed physicians who are faculty members of The University of North Carolina who work for the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services.

#### **BUTNER COMMUNITY LAND RESERVATION**

**SECTION 10.8.** The Department of Health and Human Services shall reserve and dedicate the following described land for the construction of a community building and related facilities to serve the Butner Reservation:

"Approximately 2 acres, on the east side it borders Central Avenue with a line running along the Wallace Bradshur property on the north back to the tree line next to the ADATC. From there it follows the tree line south and west to and including the softball field. From the softball field it turns east to the State Employees Credit Union and follows the Credit Union property on the south side back to Central Avenue."

This land shall be reserved and dedicated for the project which shall be funded with contributions from Granville County, contributions from the residents of the Butner Reservation, the use of cablevision franchise rebate funds received by the Department of Health and Human Services on behalf of the Butner Reservation, and other public and private sources.

#### **DHHS CENTRALIZE INFORMATION TECHNOLOGY OPERATIONS**

**SECTION 10.8A.(a)** The Department of Health and Human Services shall conduct a thorough, department-wide examination and analysis of its Information Technology (IT) infrastructure, including IT expenditures and management functions. The purpose of the examination is to enable the General Assembly and the Office of State Budget and Management to readily determine the amount of State funds being expended annually on each and all IT functions. As part of this examination, the Department shall review IT contracts with outside vendors, including the adequacy of contract management, and shall consider the implementation of performance measures in the development of future IT contracts. Upon completion of its examination and analysis, the Department shall develop a plan for the establishment of a Central IT Operations Unit encompassing all IT operations and functions that are common to all divisions, offices, and programs of the Department. The Central IT Operations Unit shall be organized such that all IT expenditures and personnel are readily identifiable. The Department may exclude from the Central IT Operations Unit those IT functions that are unique to one or more individual divisions, offices, or programs, provided that such separate IT functions are readily identifiable in terms of expenditures and personnel and that the separation allows for combining the expenditures and personnel data with expenditures and personnel data of the Central IT Operations Unit. The Department shall identify all excluded IT functions and provide reasons why it is more beneficial to the State to exclude those functions from the Central IT Operations Unit.

**SECTION 10.8A.(b)** The Office of State Budget and Management and the Department of Health and Human Services shall identify the amount of State appropriations necessary to fully fund from the General Fund the current budget for the

Division of Information Resources. Having determined the amount of General Fund dollars needed, the Office of State Budget and Management shall develop and recommend a plan for providing the necessary funds.

**SECTION 10.8A.(c)** The Department of Health and Human Services shall report on the development of the Central IT Operations Unit to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division by January 1, 2004. The Office of State Budget and Management shall report on the identification of funds required under subsection (b) of this section to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division by January 1, 2004.

#### **EDUCATION AND AWARENESS OF INFANT HOMICIDE PREVENTION ACT**

**SECTION 10.8B.(a)** The Department of Health and Human Services, Division of Public Health and the Division of Social Services, shall incorporate education and awareness of the Infant Homicide Prevention Act pursuant to S.L. 2001-291, into other State-funded programs at the local level.

**SECTION 10.8B.(b)** The Department shall report on its activities to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division not later than April 1, 2004.

#### **MEDICAL CARE COMMISSION TEMPORARY RULE-MAKING AUTHORITY EXTENDED**

**SECTION 10.8C.** Section 6(d) of S.L. 2002-160 reads as rewritten:

"**SECTION 6.(d)** Notwithstanding 26 NCAC 2C .0102(11), the ~~Commission for Health Services and the~~ Medical Care Commission may adopt temporary rules as provided in this section until 1 July ~~2003-2004.~~"

#### **UNLAWFUL PRACTICE OF PHARMACY**

**SECTION 10.8D.** Article 4A of Chapter 90 of the General Statutes is amended by adding a new section to read:

**"§ 90-85.21B. Unlawful practice of pharmacy.**

It shall be unlawful for any person, firm, or corporation not licensed or registered under the provisions of this Article to:

- (1) Use in a trade name, sign, letter, or advertisement any term, including 'drug', 'pharmacy', 'prescription drugs', 'prescription', 'Rx', or 'apothecary', that would imply that the person, firm, or corporation is licensed or registered to practice pharmacy in this State.
- (2) Hold himself or herself out to others as a person, firm, or corporation licensed or registered to practice pharmacy in this State."

#### **EFFECTIVE DATE OF LONG-TERM CARE CRIMINAL RECORD CHECKS FOR EMPLOYMENT POSITIONS**

**SECTION 10.8E.** Notwithstanding any other provision of law to the contrary, the requirements of G.S. 131E-265 for nursing homes to conduct national criminal history record checks for employment positions other than those involving

direct patient care shall become effective no earlier than January 1, 2005. Notwithstanding any other provision of law to the contrary, the requirements of G.S. 131D-2 for adult care homes to conduct national criminal records checks for all staff positions shall become effective no earlier than January 1, 2005.

**IMPLEMENT A PILOT PROJECT FOR LONG-TERM CARE COMMUNITY SERVICE COORDINATION**

**SECTION 10.8F.(a)** In accordance with the recommendations in the final report from the Institute of Medicine Task Force on Long-Term Care and the study report recommendations resulting from S.L. 2001-491, Part XXII, the Department of Health and Human Services shall implement a communications and coordination initiative to support local coordination of long-term care and shall pilot the establishment of local lead agencies to facilitate the long-term care coordination process at the county or regional level. For those counties that voluntarily participate, the local long-term care coordination initiative shall aid in the development of core services, coordinate local services, and streamline access to services. The initiative shall eliminate fragmentation and barriers to information and services; provide a seamless connection among State agencies and local entities, regardless of funding sources; and allow consumers to efficiently and effectively navigate among long-term care services.

**SECTION 10.8.F.(b)** The Department shall submit an interim report on the pilot project for local long-term care coordination to the North Carolina Study Commission on Aging by October 1, 2004, and a final report by October 1, 2005.

**SUBPART 2. DIVISION OF MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES**

**MENTAL HEALTH, DEVELOPMENTAL DISABILITY, AND SUBSTANCE ABUSE SERVICES TRUST FUND FOR SYSTEM REFORM BRIDGE AND CAPITAL FUNDING NEEDS AND OLMSTEAD**

**SECTION 10.9.** Moneys in the Trust Fund established pursuant to G.S. 143-15.3D shall be used to establish or expand community-based services only if sufficient recurring funds can be identified within the Department of Health and Human Services from funds currently budgeted for mental health, developmental disabilities, and substance abuse services, area mental health programs or county programs, or local government.

**EXTEND MENTAL HEALTH CONSUMER ADVOCACY PROGRAM CONTINGENT UPON FUNDS APPROPRIATED BY THE 2005 GENERAL ASSEMBLY**

**SECTION 10.10.** Section 4 of S.L. 2001-437, as amended by Section 10.30 of S.L. 2002-126, reads as rewritten:

"**SECTION 4.** Sections 1.1 through 1.21(b) of this act become effective July 1, 2002. Section 2 of this act becomes effective only if funds are appropriated by the 2003-2005 General Assembly for that purpose. Section 2 of this act becomes effective July 1 of the fiscal year for which funds are appropriated by the 2003-2005 General Assembly for that purpose. The remainder of this act is effective when it becomes law."

**SUBSTANCE ABUSE PREVENTION SERVICES REPORTING**

**SECTION 10.11.** The Department of Health and Human Services shall report on its activities under Section 10.24 of S.L. 2002-126 to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division not later than December 1, 2003.

**TRANSITION PLANNING FOR STATE PSYCHIATRIC HOSPITALS**

**SECTION 10.12.(a)** In keeping with the United States Supreme Court decision in Olmstead vs. L.C. & E.W. and State policy to provide appropriate services to clients in the least restrictive and most appropriate environment, the Department of Health and Human Services shall develop and implement a plan for the construction of a replacement facility for Dorothea Dix Hospital and for the transition of patients to the community or to other long-term care facilities, as appropriate. The goal is to develop mechanisms and identify resources needed to enable patients and their families to receive the necessary services and supports based on the following guiding principles:

- (1) Individuals shall be provided acute psychiatric care in non-State facilities when appropriate.
- (2) Individuals shall be provided acute psychiatric care in State facilities only when non-State facilities are unavailable.
- (3) Individuals shall receive evidenced-based psychiatric services and care that are cost-efficient.
- (4) The State shall minimize cost shifting to other State and local facilities or institutions.

**SECTION 10.12.(b)** The Department of Health and Human Services shall conduct an analysis of the individual patient service needs and shall develop and implement an individual transition plan, as appropriate, for patients in each hospital. The State shall ensure that each individual transition plan, as appropriate, shall take into consideration the availability of appropriate alternative placements based on the needs of the patient and within resources available for the mental health, developmental disabilities, and substance abuse services system. In developing each plan, the Department shall consult with the patient and the patient's family or other legal representative.

**SECTION 10.12.(c)** In accordance with the plan established in subsections (a) and (b) of this section, any nonrecurring savings in State appropriations that result from reductions in beds or services shall be placed in the Trust Fund for Mental Health, Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs. These funds shall be used to facilitate the transition of clients into appropriate community-based services and supports in accordance with G.S. 143-15.3D. Recurring savings realized through implementation of this section shall be retained by the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, (i) for implementation of subsections (a) and (b) of this section and (ii) to support the recurring costs of additional community-based placements from Division facilities in accordance with Olmstead vs. L.C. & E.W.

**SECTION 10.12.(d)** The Department of Health and Human Services shall submit reports on the status of implementation of this section to the Joint Legislative Commission on Governmental Operations, the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations

Subcommittee on Health and Human Services, and the Fiscal Research Division. These reports shall be submitted on December 1, 2003, and May 1, 2004.

### **COMPREHENSIVE TREATMENT SERVICES PROGRAM**

**SECTION 10.13.** The Department of Health and Human Services shall report on its continuing implementation of the Comprehensive Treatment Services Program established pursuant to Section 21.60 of S.L. 2001-424. The Department shall submit an interim report on December 1, 2003, and a final report not later than April 1, 2004, to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division.

### **MENTAL RETARDATION CENTER DOWNSIZING**

**SECTION 10.14.(a)** In accordance with the Department of Health and Human Services' plan for downsizing the State's regional mental retardation facilities by four percent (4%) each year, the Department shall implement cost-containment and reduction strategies to ensure the corresponding financial and staff downsizing of each facility. The Department shall manage the client population of the mental retardation centers in order to ensure that placements for ICF/MR level of care shall be made in non-State facilities. Admissions to State ICF/MR facilities are permitted only as a last resort and only upon approval of the Department. The corresponding budgets for each of the State mental retardation centers shall be reduced and positions shall be eliminated as the census of each facility decreases. At no time shall mental retardation center positions be transferred to other units within a facility or assigned nondirect care activities such as outreach.

**SECTION 10.14.(b)** Any savings in State appropriations in each year of the 2003-2005 fiscal biennium that result from reductions in beds or services shall be applied as follows:

- (1) Nonrecurring savings shall be placed in the Trust Fund for Mental Health, Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs and shall be used to facilitate the transition of clients into appropriate community-based services and support in accordance with G.S. 143-15.3D; and
- (2) Recurring savings realized through implementation of this section shall be retained by the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, to support the recurring costs of additional community-based placements from Division facilities in accordance with Olmstead vs. L.C. & E.W. In determining the savings in this section, savings shall include all savings realized from the downsizing of the State mental retardation centers including both the savings in direct State appropriations in the budgets of the State mental retardation centers as well as the savings in the State matching portion of reduced Medicaid payments associated with downsizing.

**SECTION 10.14.(c)** The Department of Health and Human Services shall report on its progress in complying with this section to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research



Division. The progress report shall be submitted not later than January 15, 2004, and a final report submitted not later than May 1, 2004.

**SECTION 10.14.(d)** Downsizing of mental retardation centers which occurs in the 2003-2004 fiscal year shall be maintained for the 2004-2005 fiscal year. Effective July 1, 2003, downsizing shall be accomplished in accordance with this section and the State Plan for Mental Health, Developmental Disabilities, and Substance Abuse Services. All savings resulting from downsizing occurring on and after July 1, 2003, shall be utilized as set forth in subsection (b) of this section.

#### **MENTAL RETARDATION CENTER TRANSITION PLAN**

**SECTION 10.15.(a)** The Department of Health and Human Services shall develop and implement a plan for the reorganization of outreach services performed by the State mental retardation centers. The plan shall provide for the elimination of self-referrals by the mental retardation centers and shall include the following:

- (1) The area and county mental health programs shall have exclusive authority for referring to the mental retardation centers persons in the community who are in need of specialized services.
- (2) The mental retardation centers shall coordinate the transition of residents from the mental retardation centers to area and county mental health programs, and shall provide technical assistance to community service providers and families who care for transitioned residents, and to others in the community, as appropriate, for the purpose of furthering community services and placement.
- (3) The method for allocating savings in State appropriations from the mental retardation centers across the area and county mental health programs.

**SECTION 10.15.(b)** In accordance with the plan established in subsection (a) of this section, any recurring and nonrecurring savings in State appropriations that result from the transfer of referral activities in the mental retardation centers to area and county mental health programs shall be transferred from the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services to area and county mental health programs for referral activities.

**SECTION 10.15.(c)** The Department of Health and Human Services shall report on the implementation of this section to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division. This report shall be submitted on February 1, 2004.

#### **SERVICES TO MULTIPLY DIAGNOSED ADULTS**

**SECTION 10.16.(a)** In order to ensure that multiply-diagnosed adults are appropriately served by the mental health, developmental disabilities, and substance abuse services system, the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall do the following with respect to services provided to these adults:

- (1) Implement the following guiding principles for the provision of services:

- a. Service delivery system must be outcome oriented and evaluation based.
  - b. Services should be delivered as close as possible to the consumer's home.
  - c. Services selected should be those that are most efficient in terms of cost and effectiveness.
  - d. Services should not be provided solely for the convenience of the provider or the client.
  - e. Families and consumers should be involved in decision making throughout treatment planning and delivery.
- (2) Provide those treatment services that are medically necessary.
  - (3) Implement utilization review of services provided.

**SECTION 10.16.(b)** The Department of Health and Human Services shall implement all of the following cost-reduction strategies:

- (1) Preauthorization for all services except emergency services.
- (2) Criteria for determining medical necessity.
- (3) Clinically appropriate services.
- (4) Not later than May 1, 2004, conduct a State review of (i) individualized service plans for former Thomas S. class members and for adults whose service plan exceeds one hundred thousand dollars (\$100,000) to ensure that service plans focus on delivery of appropriate services rather than optimal treatment and habilitation plans and (ii) staffing patterns of residential services.

**SECTION 10.16.(c)** No State funds shall be used for the purchase of single-family or other residential dwellings to house multiply diagnosed adults.

**SECTION 10.16.(d)** The Department shall submit a progress report on implementation of this section not later than February 1, 2004, and a final report not later than May 1, 2004, to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division.

#### **AREA MENTAL HEALTH ADMINISTRATIVE COSTS**

**SECTION 10.17.(a)** Area mental health, developmental disabilities, and substance abuse authorities or counties administering mental health, developmental disabilities, and substance abuse services shall develop and implement plans to reduce local administrative costs. The plans shall be developed in accordance with guidelines adopted by the Secretary, in consultation with the Local Government Commission and the North Carolina Association of County Commissioners, and in accordance with the following:

- (1) Administrative costs for area mental health, developmental disabilities, and substance abuse services programs shall not exceed thirteen percent (13%).
- (2) Administrative costs for counties administering mental health, developmental disabilities, and substance abuse services through a county program shall not exceed thirteen percent (13%).

**SECTION 10.17.(b)** The Department of Health and Human Services shall report its progress in complying with this section not later than January 1, 2004, and April 15, 2004. The reports shall be submitted to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations

Subcommittee on Health and Human Services, and the Fiscal Research Division and shall include:

- (1) A description of the process used and the participants involved in complying with subsection (a) of this section.
- (2) The guidelines developed under subsection (a) of this section.
- (3) A description of local compliance initiatives and efforts including program or function consolidation.
- (4) A list of area programs at or below the targeted thirteen percent (13%) for the 2003-2004 fiscal year.
- (5) Projected savings in administrative costs as a result of implementation of the targeted limits required under this section.

**SECTION 10.17.(c)** The Department may implement alternative approaches to establish reasonable administrative cost limitations for Local Management Entities (LMEs), including both county programs and area authority models, and service providers in accordance with system reform and changes in system funding structures.

### **PRIVATE AGENCY UNIFORM COST FINDING REQUIREMENT**

**SECTION 10.18.(a)** To ensure uniformity in rates charged to area programs and funded with State-allocated resources, the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services of the Department of Health and Human Services may require a private agency that provides services under contract with an area program or county program, except for hospital services that have an established Medicaid rate, to complete an agency-wide uniform cost finding in accordance with G.S. 122C-147.2. The resulting cost shall be the maximum included for the private agency in the contracting area program's unit cost finding.

**SECTION 10.18.(b)** If a private agency fails to timely and accurately complete the required agency-wide uniform cost finding in a manner acceptable to the Department's controller's office, the Department may suspend all Department funding and payment to the private agency until such time as an acceptable cost finding has been completed by the private agency and approved by the Department's controller's office.

### **GROUP HOME TRACKING SYSTEM**

**SECTION 10.18A.** The Department of Health and Human Services shall use funds within its budget for the 2003-2004 fiscal year to develop a group home tracking system.

## **SUBPART 3. DIVISION OF MEDICAL ASSISTANCE**

### **MEDICAID**

**SECTION 10.19.(a)** Funds appropriated in this act for services provided in accordance with Title XIX of the Social Security Act (Medicaid) are for both the categorically needy and the medically needy. Funds appropriated for these services shall be expended in accordance with the following schedule of services and payment bases. All services and payments are subject to the language at the end of this subsection.

Services and payment bases:

- (1) Hospital-Inpatient. – Payment for hospital inpatient services will be prescribed in the State Plan as established by the Department of Health and Human Services.

- (2) Hospital-Outpatient. – Eighty percent (80%) of allowable costs or a prospective reimbursement plan as established by the Department of Health and Human Services.
- (3) Nursing Facilities. – Payment for nursing facility services will be prescribed in the State Plan as established by the Department of Health and Human Services. Nursing facilities providing services to Medicaid recipients who also qualify for Medicare must be enrolled in the Medicare program as a condition of participation in the Medicaid Program. State facilities are not subject to the requirement to enroll in the Medicare program. Residents of nursing facilities who are eligible for Medicare coverage of nursing facility services must be placed in a Medicare certified bed. Medicaid shall cover facility services only after the appropriate services have been billed to Medicare. The Division of Medical Assistance shall allow nursing facility providers sufficient time from the effective date of this act to certify additional Medicare beds if necessary. In determining the date that the requirements of this subdivision become effective, the Division of Medical Assistance shall consider the regulations governing certification of Medicare beds and the length of time required for this process to be completed.
- (4) Intermediate Care Facilities for the Mentally Retarded. – As prescribed in the State Plan as established by the Department of Health and Human Services.
- (5) Drugs. – Drug costs as allowed by federal regulations plus a professional services fee per month excluding refills for the same drug or generic equivalent during the same month. Reimbursement shall be available for up to six prescriptions per recipient, per month, including refills. Payments for drugs are subject to the provisions of subsection (h) of this section and to the provisions at the end of subsection (a) of this section or in accordance with the State Plan adopted by the Department of Health and Human Services consistent with federal reimbursement regulations. Payment of the professional services fee shall be made in accordance with the State Plan adopted by the Department of Health and Human Services, consistent with federal reimbursement regulations. The professional services fee shall be five dollars and sixty cents (\$5.60) per prescription for generic drugs and four dollars (\$4.00) per prescription for brand name drugs. Adjustments to the professional services fee shall be established by the General Assembly.
- (6) Physicians, Chiropractors, Podiatrists, Optometrists, Dentists, Certified Nurse Midwife Services, Nurse Practitioners. – Fee schedules as developed by the Department of Health and Human Services. Payments for dental services are subject to the provisions of subsection (g) of this section.
- (7) Community Alternative Program, EPSDT Screens. – Payment to be made in accordance with the rate schedule developed by the Department of Health and Human Services.

- (8) Home Health and Related Services, Private Duty Nursing, Clinic Services, Prepaid Health Plans, Durable Medical Equipment. – Payment to be made according to reimbursement plans developed by the Department of Health and Human Services.
- (9) Medicare Buy-In. – Social Security Administration premium.
- (10) Ambulance Services. – Uniform fee schedules as developed by the Department of Health and Human Services. Public ambulance providers will be reimbursed at cost.
- (11) Hearing Aids. – Actual cost plus a dispensing fee.
- (12) Rural Health Clinic Services. – Provider-based, reasonable cost; nonprovider-based, single-cost reimbursement rate per clinic visit.
- (13) Family Planning. – Negotiated rate for local health departments. For other providers, see specific services, for instance, hospitals, physicians.
- (14) Independent Laboratory and X-Ray Services. – Uniform fee schedules as developed by the Department of Health and Human Services.
- (15) Optical Supplies. – One hundred percent (100%) of reasonable wholesale cost of materials.
- (16) Ambulatory Surgical Centers. – Payment as prescribed in the reimbursement plan established by the Department of Health and Human Services.
- (17) Medicare Crossover Claims. – By not later than October 1, 2005, the Department shall apply Medicaid medical policy to Medicare claims for dually eligible recipients. The Department shall pay an amount up to the actual coinsurance or deductible or both, in accordance with the State Plan, as approved by the Department of Health and Human Services.
- (18) Physical Therapy and Speech Therapy. – Services limited to EPSDT-eligible children. Payments are to be made only to qualified providers at rates negotiated by the Department of Health and Human Services. Physical therapy (including occupational therapy) and speech therapy services are subject to prior approval and utilization review.
- (19) Personal Care Services. – Payment in accordance with the State Plan approved by the Department of Health and Human Services.
- (20) Case Management Services. – Reimbursement in accordance with the availability of funds to be transferred within the Department of Health and Human Services.
- (21) Hospice. – Services may be provided in accordance with the State Plan developed by the Department of Health and Human Services.
- (22) Other Mental Health Services. – Unless otherwise covered by this section, coverage is limited to:
  - a. Services as defined by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services and approved by the Centers for Medicare and Medicaid Services (CMS) when provided in agencies meeting the requirements of the rules established by the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services and reimbursement is made in accordance with a State Plan developed by the Department of Health and Human Services

not to exceed the upper limits established in federal regulations, and

- b. For children eligible for EPSDT services:
  - 1. Licensed or certified psychologists, licensed clinical social workers, certified clinical nurse specialists in psychiatric mental health advanced practice, and nurse practitioners certified as clinical nurse specialists in psychiatric mental health advanced practice, when Medicaid-eligible children are referred by the Carolina ACCESS primary care physician or the area mental health program, and
  - 2. Institutional providers of residential services as defined by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services and approved by the Centers for Medicare and Medicaid Services (CMS) for children and Psychiatric Residential Treatment Facility services that meet federal and State requirements as defined by the Department.

Notwithstanding G.S. 150B-21.1(a), the Department of Health and Human Services may adopt temporary rules in accordance with Chapter 150B of the General Statutes further defining the qualifications of providers and referral procedures in order to implement this subdivision. Coverage policy for services defined by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services under sub-subdivisions a. and b.2 of this subdivision shall be established by the Division of Medical Assistance.

- (23) Medically Necessary Prosthetics or Orthotics for EPSDT-Eligible Children. – Reimbursement in accordance with the State Plan approved by the Department of Health and Human Services.
- (24) Health Insurance Premiums. – Payments to be made in accordance with the State Plan adopted by the Department of Health and Human Services consistent with federal regulations.
- (25) Medical Care/Other Remedial Care. – Services not covered elsewhere in this section include related services in schools; health professional services provided outside the clinic setting to meet maternal and infant health goals; and services to meet federal EPSDT mandates. Services addressed by this subdivision are limited to those prescribed in the State Plan as established by the Department of Health and Human Services.
- (26) Pregnancy-Related Services. – Covered services for pregnant women shall include nutritional counseling, psychosocial counseling, and predelivery and postpartum home visits by maternity care coordinators and public health nurses.

Services and payment bases may be changed with the approval of the Director of the Budget.

Payment is limited to Medicaid-enrolled providers that purchase a performance bond in an amount not to exceed one hundred thousand dollars (\$100,000) naming as beneficiary the Department of Health and Human Services, Division of Medical Assistance, or provide to the Department a validly executed letter of credit or

other financial instrument issued by a financial institution or agency honoring a demand for payment in an equivalent amount. The Department may waive or limit the requirements of this paragraph for one or more classes of Medicaid-enrolled providers based on the provider's dollar amount of monthly billings to Medicaid or the length of time the provider has been licensed in this State to provide services. In waiving or limiting requirements of this paragraph, the Department shall take into consideration the potential fiscal impact of the waiver or limitation on the State Medicaid Program. The Department may adopt temporary rules in accordance with G.S. 150B-21.1 as necessary to implement this provision.

Reimbursement is available for up to 24 visits per recipient per year to any one or combination of the following: physicians, clinics, hospital outpatient, optometrists, chiropractors, and podiatrists. Prenatal services, all EPSDT children, emergency rooms, and mental health services subject to independent utilization review are exempt from the visit limitations contained in this paragraph. Exceptions may be authorized by the Department of Health and Human Services where the life of the patient would be threatened without such additional care. Any person who is determined by the Department to be exempt from the 24-visit limitation may also be exempt from the six-prescription limitation.

**SECTION 10.19.(b)** Allocation of Nonfederal Cost of Medicaid. – The State shall pay eighty-five percent (85%); the county shall pay fifteen percent (15%) of the nonfederal costs of all applicable services listed in this section.

**SECTION 10.19.(c)** Copayment for Medicaid Services. – The Department of Health and Human Services may establish co-payment up to the maximum permitted by federal law and regulation.

**SECTION 10.19.(d)** Medicaid and Work First Family Assistance, Income Eligibility Standards. – The maximum net family annual income eligibility standards for Medicaid and Work First Family Assistance and the Standard of Need for Work First Family Assistance shall be as follows:

Family Size	<u>Categorically Needy</u>	<u>Medically Needy</u>	
	<u>WFFA*</u> Standard of Need	Families and Children Income Level	<u>AA, AB, AD*</u>
1	\$4,344	\$2,172	\$2,900
2	5,664	2,832	3,800
3	6,528	3,264	4,400
4	7,128	3,564	4,800
5	7,776	3,888	5,200
6	8,376	4,188	5,600
7	8,952	4,476	6,000
8	9,256	4,680	6,300

\*Work First Family Assistance (WFFA); Aid to the Aged (AA); Aid to the Blind (AB); and Aid to the Disabled (AD).

The payment level for Work First Family Assistance shall be fifty percent (50%) of the standard of need.

These standards may be changed with the approval of the Director of the Budget with the advice of the Advisory Budget Commission.

**SECTION 10.19.(e)** The Department of Health and Human Services, Division of Medical Assistance, shall provide Medicaid coverage to all elderly, blind, and disabled people who have incomes equal to or less than one hundred percent (100%) of the federal poverty guidelines, as revised each April 1.

**SECTION 10.19.(f)** ICF and ICF/MR Work Incentive Allowances. – The Department of Health and Human Services may provide an incentive allowance to Medicaid-eligible recipients of ICF and ICF/MR facilities who are regularly engaged in work activities as part of their developmental plan and for whom retention of additional income contributes to their achievement of independence. The State funds required to match the federal funds that are required by these allowances shall be provided from savings within the Medicaid budget or from other unbudgeted funds available to the Department. The incentive allowances may be as follows:

<u>Monthly Net Wages</u>	<u>Monthly Incentive Allowance</u>
\$1.00 to \$100.99	Up to \$50.00
\$101.00 to \$200.99	\$80.00
\$201.00 to \$300.99	\$130.00
\$301.00 and greater	\$212.00.

**SECTION 10.19.(g)** Dental Coverage Limits. – Dental services shall be provided on a restricted basis in accordance with rules adopted by the Department to implement this subsection.

**SECTION 10.19.(h)** Dispensing of Generic Drugs. – Notwithstanding G.S. 90-85.27 through G.S. 90-85.31, or any other law to the contrary, under the Medical Assistance Program (Title XIX of the Social Security Act), and except as otherwise provided in this subsection for atypical antipsychotic drugs and drugs listed in the narrow therapeutic index, a prescription order for a drug designated by a trade or brand name shall be considered to be an order for the drug by its established or generic name, except when the prescriber has determined, at the time the drug is prescribed, that the brand name drug is medically necessary and has written on the prescription order the phrase "medically necessary". An initial prescription order for an atypical antipsychotic drug or a drug listed in the narrow therapeutic drug index that does not contain the phrase "medically necessary" shall be considered an order for the drug by its established or generic name, except that a pharmacy shall not substitute a generic or established name prescription drug for subsequent brand or trade name prescription orders of the same prescription drug without explicit oral or written approval of the prescriber given at the time the order is filled. Generic drugs shall be dispensed at a lower cost to the Medical Assistance Program rather than trade or brand name drugs. As used in this subsection, "brand name" means the proprietary name the manufacturer places upon a drug product or on its container, label, or wrapping at the time of packaging; and "established name" has the same meaning as in section 502(e)(3) of the Federal Food, Drug, and Cosmetic Act as amended, 21 U.S.C. § 352(e)(3).

**SECTION 10.19.(i)** The Department of Health and Human Services shall not impose prior authorization requirements or other restrictions under the State Medical Assistance Program on medications prescribed for Medicaid recipients for the treatment of: (i) mental illness, including, but not limited to, medications for schizophrenia, bipolar disorder, and major depressive disorder, or (ii) HIV/AIDS.

**SECTION 10.19.(j)** Exceptions to Service Limitations, Eligibility Requirements, and Payments. – Service limitations, eligibility requirements, and payments bases in this section may be waived by the Department of Health and Human



Services, with the approval of the Director of the Budget, to allow the Department to carry out pilot programs for prepaid health plans, contracting for services, managed care plans, or community-based services programs in accordance with plans approved by the United States Department of Health and Human Services or when the Department determines that such a waiver will result in a reduction in the total Medicaid costs for the recipient. The Department of Health and Human Services may proceed with planning and development work on the Program of All-Inclusive Care for the Elderly.

**SECTION 10.19.(k)** Volume Purchase Plans and Single Source Procurement. – The Department of Health and Human Services, Division of Medical Assistance, may, subject to the approval of a change in the State Medicaid Plan, contract for services, medical equipment, supplies, and appliances by implementation of volume purchase plans, single source procurement, or other contracting processes in order to improve cost containment.

**SECTION 10.19.(l)** Cost-Containment Programs. – The Department of Health and Human Services, Division of Medical Assistance, may undertake cost-containment programs in accordance with Section 3 of S.L. 2001-395, including contracting for services, preadmissions to hospitals, and prior approval for certain outpatient surgeries before they may be performed in an inpatient setting.

**SECTION 10.19.(m)** For all Medicaid eligibility classifications for which the federal poverty level is used as an income limit for eligibility determination, the income limits will be updated each April 1 immediately following publication of federal poverty guidelines.

**SECTION 10.19.(n)** The Department of Health and Human Services shall provide Medicaid to 19-, 20-, and 21-year-olds in accordance with federal rules and regulations.

**SECTION 10.19.(o)** The Department of Health and Human Services shall provide coverage to pregnant women and to children according to the following schedule:

- (1) Pregnant women with incomes equal to or less than one hundred eighty-five percent (185%) of the federal poverty guidelines as revised each April 1 shall be covered for Medicaid benefits. In determining income eligibility under this subdivision, the income of a minor's parents shall be counted if the minor is residing in the home.
- (2) Infants under the age of one with family incomes equal to or less than one hundred eighty-five percent (185%) of the federal poverty guidelines as revised each April 1 shall be covered for Medicaid benefits.
- (3) Children aged one through five with family incomes equal to or less than one hundred thirty-three percent (133%) of the federal poverty guidelines as revised each April 1 shall be covered for Medicaid benefits.
- (4) Children aged six through 18 with family incomes equal to or less than the federal poverty guidelines as revised each April 1 shall be covered for Medicaid benefits.
- (5) The Department of Health and Human Services shall provide Medicaid coverage for adoptive children with special or rehabilitative needs regardless of the adoptive family's income.

Services to pregnant women eligible under this subsection continue throughout the pregnancy but include only those related to pregnancy and to those other conditions determined by the Department as conditions that may complicate pregnancy. In order to reduce county administrative costs and to expedite the provision of medical services to pregnant women, to infants, and to children described in subdivisions (3) and (4) of this subsection, no resources test shall be applied.

**SECTION 10.19.(p)** Medicaid enrollment of categorically needy families with children shall be continuous for one year without regard to changes in income or assets.

**SECTION 10.19.(q)** The Division of Medical Assistance, Department of Health and Human Services, may provide incentives to counties that successfully recover fraudulently spent Medicaid funds by sharing State savings with counties responsible for the recovery of the fraudulently spent funds.

**SECTION 10.19.(r)** If first approved by the Office of State Budget and Management, the Division of Medical Assistance, Department of Health and Human Services, may use funds that are identified to support the cost of development and acquisition of equipment and software through contractual means to improve and enhance information systems that provide management information and claims processing. The Department of Health and Human Services shall identify adequate funds to support the implementation and first year's operational costs that exceed the currently allocated funds for the new contract for the fiscal agent for the Medicaid Management Information System.

**SECTION 10.19.(s)** The Department of Health and Human Services may adopt temporary or emergency rules according to the procedures established in G.S. 150B-21.1 and G.S. 150B-21.1A when it finds that these rules are necessary to maximize receipt of federal funds within existing State appropriations, to reduce Medicaid expenditures, and to reduce fraud and abuse. Prior to the filing of these temporary or emergency rules with the Rules Review Commission and the Office of Administrative Hearings, the Department shall consult with the Office of State Budget and Management on the possible fiscal impact of the temporary or emergency rule and its effect on State appropriations and local governments.

**SECTION 10.19.(t)** The Department shall report to the Fiscal Research Division of the Legislative Services Office and to the House of Representatives Appropriations Subcommittee on Health and Human Services and the Senate Appropriations Committee on Health and Human Services or the Joint Legislative Health Care Oversight Committee on any change it anticipates making in the Medicaid Program that impacts the type or level of service, reimbursement methods, or waivers, any of which require a change in the State Plan or other approval by the Centers for Medicare and Medicaid Services (CMS). The reports shall be provided at the same time they are submitted to CMS for approval.

**SECTION 10.19.(u)** Upon approval of a demonstration waiver by the Centers for Medicare and Medicaid Services (CMS), the Department of Health and Human Services may provide Medicaid coverage for family planning services to men and women of child-bearing age with family incomes equal to or less than one hundred eighty-five percent (185%) of the federal poverty level. Coverage shall be contingent upon federal approval of the waiver and shall begin no earlier than January 1, 2001.

**SECTION 10.19.(v)** The Department of Health and Human Services, Division of Medical Assistance, shall use the latest audited cost reporting data available when establishing Medicaid provider rates or when making changes to the

reimbursement methodology. For hospital services, the Division shall use the latest audited cost reporting data available, supplemented by additional financial information available to the Division if and to the extent that the Division concludes that the information is reliable and relevant, when establishing rates or when making changes to the reimbursement methodology.

**SECTION 10.19.(w)** The Department of Health and Human Services, Division of Medical Assistance, shall implement a new coding system for therapeutic mental health services as required by the Health Insurance Portability and Accountability Act of 1996. In implementing the new coding system, the Division shall ensure that the new coding system does not discriminate between providers of therapeutic mental health services with similar qualifications and training. In meeting the requirements of this subsection, the Division shall consult with the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services and the professional licensing boards responsible for licensing the affected professionals.

**SECTION 10.19.(x)** The Department of Health and Human Services may apply federal transfer of assets policies, as described in Title XIX, section 1917(c) of the Social Security Act, including the attachment of liens, to real property excluded as "income producing", tenancy-in-common, or as nonhomesite property made "income producing" under Title XIX, section 1902(r)(2) of the Social Security Act. The transfer of assets policy shall apply only to an institutionalized individual or the individual's spouse as defined in Title XIX, section 1917(c) of the Social Security Act. This subsection becomes effective no earlier than October 1, 2001. Federal transfer of asset policies and attachment of liens to properties excluded as tenancy-in-common or as nonhomesite property made "income producing" in accordance with this subsection shall become effective not earlier than November 1, 2002.

**SECTION 10.19.(y)** When implementing the Supplemental Security Income (SSI) method for considering equity value of income producing property, the Department shall, to the maximum extent possible, employ procedures to mitigate the hardship to Medicaid enrollees occurring from application of the Supplemental Security Income (SSI) method.

**SECTION 10.19.(z)** Unless required for compliance with federal law, the Department shall not change medical policy affecting the amount, sufficiency, duration, and scope of health care services and who may provide services until the Division of Medical Assistance has prepared a five-year fiscal analysis documenting the increased cost of the proposed change in medical policy and submitted it for Departmental review. If the fiscal impact indicated by the fiscal analysis for any proposed medical policy change exceeds three million dollars (\$3,000,000) in total requirements for a given fiscal year, then the Department shall submit the proposed policy change with the fiscal analysis to the Office of State Budget and Management and the Fiscal Research Division. The Department shall not implement any proposed medical policy change exceeding three million dollars (\$3,000,000) in total requirements for a given fiscal year unless the source of State funding is identified and approved by the Office of State Budget and Management. The Department shall provide the Office of State Budget and Management and the Fiscal Research Division a quarterly report itemizing all medical policy changes with total requirements of less than three million dollars (\$3,000,000).

**SECTION 10.19.(aa)** The Department of Health and Human Services, Division of Medical Assistance, shall convene a work group to review the current Medicaid standards for vision screening for Medicaid-eligible children to determine whether the standards are meeting the vision needs of these children. The Secretary

shall appoint to the work group pediatricians, ophthalmologists, optometrists, and other individuals with expertise or interest in children's vision care. The Department shall report the findings of the work group to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division by March 1, 2004. The report shall include recommendations on whether current Medicaid standards need to be modified to meet the vision care needs of Medicaid-eligible children and, if modification is necessary, the cost of providing vision services based on the modified standards.

**SECTION 10.19.(bb)** The Department shall develop, amend, and adopt medical coverage policy in accordance with the following:

- (1) During the development of new medical coverage policy or amendment to existing medical coverage policy, consult with and seek the advice of the Physician Advisory Group of the North Carolina Medical Society and other organizations the Secretary deems appropriate. The Secretary shall also consult with and seek the advice of officials of the professional societies or associations representing providers groups listed in subdivision (a)(6) of this section who are affected by the new medical coverage policy or amendments to existing medical coverage policy due to their involvement with or use of new technologies or therapies.
- (2) At least 45 days prior to the adoption of new or amended medical coverage policy, the Department shall:
  - a. Publish the proposed new or amended medical coverage policy on the Department's web site;
  - b. Notify all Medicaid providers of the proposed, new, or amended policy; and
  - c. Upon request, provide persons copies of the proposed medical coverage policy.
- (3) During the 45-day period immediately following publication of the proposed new or amended medical coverage policy, accept oral and written comments on the proposed new or amended policy.
- (4) If, following the comment period, the proposed new or amended medical coverage policy is modified, then the Department shall, at least 15 days prior to its adoption:
  - a. Notify all Medicaid providers of the proposed policy;
  - b. Upon request, provide persons notice of amendments to the proposed policy; and
  - c. Accept additional oral or written comments during this 15-day period.

#### **MEDICAID RESERVE FUND TRANSFER**

**SECTION 10.20.** Of the funds transferred to the Department of Health and Human Services for Medicaid programs pursuant to G.S. 143-23.2, the sum of sixty-two million five hundred thousand dollars (\$62,500,000) for the 2003-2004 fiscal year and the sum of sixty-two million five hundred thousand dollars (\$62,500,000) for

the 2004-2005 fiscal year shall be allocated as prescribed by G.S. 143-23.2(b) for Medicaid programs. Notwithstanding the prescription in G.S. 143-23.2(b) that these funds not reduce State general revenue funding, these funds shall replace the reduction in general revenue funding effected in this act.

#### **DISPOSITION OF DISPROPORTIONATE SHARE RECEIPTS**

**SECTION 10.21.(a)** Disproportionate share receipts reserved at the end of the 2003-2004 and 2004-2005 fiscal years shall be deposited with the Department of State Treasurer as nontax revenue for each of those fiscal years.

**SECTION 10.21.(b)** For each year of the 2003-2005 fiscal biennium, as it receives funds associated with Disproportionate Share Payments from State hospitals, the Department of Health and Human Services, Division of Medical Assistance, shall deposit up to one hundred million dollars (\$100,000,000) of these Disproportionate Share Payments to the Department of State Treasurer for deposit as nontax revenue. Any Disproportionate Share Payments collected in excess of one hundred million dollars (\$100,000,000) shall be reserved by the State Treasurer for future appropriations.

#### **COUNTY MEDICAID COST SHARE**

**SECTION 10.22.(a)** Effective July 1, 2000, the county share of the cost of Medicaid services currently and previously provided by area mental health authorities shall be increased incrementally each fiscal year until the county share reaches fifteen percent (15%) of the nonfederal share by State fiscal year 2009-2010.

**SECTION 10.22.(b)** Effective July 1, 2000, the county share of the cost of Medicaid Personal Care Services paid to adult care homes shall be decreased incrementally each fiscal year until the county share reaches fifteen percent (15%) of the nonfederal share by State fiscal year 2009-2010.

#### **MEDICAID COST CONTAINMENT ACTIVITIES**

**SECTION 10.23.** The Department of Health and Human Services may use not more than five million dollars (\$5,000,000) in the 2003-2004 fiscal year and not more than three million dollars (\$3,000,000) in the 2004-2005 fiscal year in Medicaid funds budgeted for program services to support the cost of administrative activities when cost-effectiveness and savings are demonstrated. The funds shall be used to support activities that will contain the cost of the Medicaid Program, including contracting for services or hiring additional staff. Medicaid cost-containment activities may include prospective reimbursement methods, incentive-based reimbursement methods, service limits, prior authorization of services, periodic medical necessity reviews, revised medical necessity criteria, service provision in the least costly settings, plastic magnetic stripped Medicaid identification cards for issuance to Medicaid enrollees, fraud detection software or other fraud detection activities, credit balance recovery and data mining services, and other cost-containment activities. Funds may be expended under this section only after the Office of State Budget and Management has approved a proposal for the expenditure submitted by the Department. Proposals for expenditure of funds under this section shall include the cost of implementing the cost-containment activity and documentation of the amount of savings expected to be realized from the cost-containment activity. The Department shall provide a copy of proposals for expenditures under this section to the Fiscal Research Division.

**INCREASES IN FEDERAL MEDICAID FUNDS**

**SECTION 10.24.(a)** Notwithstanding any other provision of law to the contrary, the total amount of State funds that become available to the Department of Health and Human Services for the 2003-2004 fiscal year due to an increase in federal Medicaid funds resulting from increases in the Federal Financial Participation rate shall be used to increase funds appropriated to the Department for the 2003-2004 fiscal year for the Medicaid Program without any reduction in what is otherwise allocated to the Department from appropriated funds.

**SECTION 10.24.(b)** The Department of Health and Human Services, Division of Medical Assistance, may reinstate eligibility policies changed by this act when all of the following conditions are met:

- (1) Congress approves enhanced Federal Financial Participation for State Medicaid programs.
- (2) Receipt of the enhanced Federal Financial Participation is dependent on a State's maintenance of effort in Medicaid eligibility.
- (3) The Department has concluded that the enacted policy changes render the State ineligible for the enhanced Federal Financial Participation.
- (4) Enhanced Federal Financial Participation receipts exceed the anticipated savings in State funds from the enacted policy changes.

**TRANSFER OF PROPERTY TO QUALIFY FOR MEDICAID**

**SECTION 10.26.** G.S. 108A-58 reads as rewritten:

**"§ 108A-58. Transfer of property for purposes of qualifying for medical assistance; periods of ineligibility.**

(a) Any person, otherwise eligible, who, either while receiving medical assistance benefits or ~~within one year prior to the date of applying for medical assistance benefits, unless some other~~ within the time period is mandated by controlling federal law, sells, gives, assigns or transfers countable real or personal property or an interest in real or personal property for the purpose of retaining or establishing eligibility for medical assistance benefits, shall be ineligible to receive medical assistance benefits as set forth in ~~subsection (e) of this section~~ section 1917(c) of the Social Security Act. Countable real and personal property includes real property, excluding a homesite, unless other applicable federal or State law requires the homesite to be counted for transfer of property purposes, intangible personal property, nonessential motor and recreational vehicles, nonincome producing business equipment, boats and motors. The provisions of this act shall not apply to the sale, gift, assignment or transfer of real or personal property if and to the extent that the person applying for medical assistance would have been eligible for such assistance notwithstanding ownership of such property or an interest therein.

(b) Any sale, gift, assignment or transfer of real or personal property or an interest in real or personal property, as provided in subsection (a) of this section, shall be presumed to have been made for the purpose of retaining or establishing eligibility for medical assistance benefits unless the person, or the person's legal representative, who sells, gives, assigns or transfers the property or interest, receives valuable consideration at least equal to the fair market value, less encumbrances, of the property or interest.

(c) Any person who sells, gives, assigns or transfers real or personal property or an interest in real or personal property for the purpose of retaining or establishing eligibility for medical assistance benefits, as provided in subsection (a) of this section,

shall, after the time of transfer, be ineligible to receive these benefits until an amount equal to the uncompensated value of the property or interest has been expended by or on behalf of the person for the person's maintenance and support, including medical expenses, paid or incurred, or shall be ineligible based on the period of time required under section 1917(c) of the Social Security Act. ~~in accordance with the following schedule, whichever is sooner;~~

- ~~(1) For uncompensated value of at least one thousand dollars (\$1,000) but not more than six thousand dollars (\$6,000), a one-year period of ineligibility from date of sale, gift, assignment or transfer;~~
- ~~(2) For uncompensated value of more than six thousand dollars (\$6,000) but not more than twelve thousand dollars (\$12,000), a two-year period of ineligibility from date of sale, gift, assignment or transfer;~~
- ~~(3) For uncompensated value of more than twelve thousand dollars (\$12,000), a two-year period of ineligibility from date of sale, gift, assignment or transfer, plus one additional month of ineligibility for each five hundred dollar (\$500.00) increment or portion thereof by which the uncompensated value exceeds twelve thousand dollars (\$12,000), but in no event to exceed three years.~~

(d) The sale, gift, assignment or transfer for a consideration less than fair market value, less encumbrances, of any tangible personal property which was acquired with the proceeds of sale, assignment or transfer of real or intangible personal property described in subsection (a) of this section or in exchange for such real or intangible personal property shall be presumed to have been for the purpose of evading the provisions of this section if the acquisition and sale, gift, assignment or transfer of the tangible personal property is by or on behalf of a person receiving medical assistance or within the time period mandated by controlling federal law ~~one year of making application for such assistance~~ and the consequences of the sale, gift, assignment or transfer of such tangible personal property shall be determined under the provisions of subsections ~~(e), (f) and (g)~~ (c) and (f) of this section.

(e) The presumptions created by subsections (b) and (d) may be overcome if the person receiving or applying for medical assistance, or the person's legal representative, establishes by the greater weight of the evidence that the sale, gift, assignment or transfer was exclusively for some purpose other than retaining or establishing eligibility for medical assistance benefits.

(f) For the purpose of establishing uncompensated value under subsection (c), the value of property or an interest therein shall be the fair market value of the property or interest at the time of the sale, gift, assignment or transfer, less the amount of compensation, if any, received for the property or interest. There shall be a rebuttable presumption that the fair market value of real property is the most recent property tax value of the property, as ascertained according to Subchapter II of Chapter 105 of the General Statutes. Fair market value for purpose of this subsection shall be such value, determined as above set out, less any legally enforceable encumbrances to which the property is subject.

~~(g) In the event that there is more than one sale, gift, assignment or transfer of property or an interest therein by a person receiving medical assistance or within one year of the date of an application for medical assistance, unless some other time period is mandated by controlling federal law, the uncompensated value, for the purposes of subsection (c), shall be the aggregate uncompensated value of all sales, gifts, assignments and transfers. The date which is the midpoint between the date of the first~~

~~and last sale, gift, assignment or transfer shall be the date from which the period of ineligibility shall be determined under subsection (c).~~

(h) This section shall not apply to applicants for or recipients of Work First Family Assistance or to persons entitled to medical assistance by virtue of their eligibility for Work First Family Assistance.

(i) This section shall apply only to transfers made before July 1, 1988."

### **MEDICARE ENROLLMENT REQUIRED**

**SECTION 10.27.** Part 6 of Article 2 of Chapter 108A of the General Statutes is amended by adding the following new section to read:

**"§ 108A-55.1. Medicare enrollment required.**

The Department shall require State Medical Assistance Program recipients who qualify for Medicare to enroll in Medicare, in accordance with Title XIX of the Social Security Act, in order to pay medical expenditures that qualify for payment under Medicare Part B. Failure to enroll in Medicare shall result in nonpayment of these expenditures under the State Medical Assistance Program. A provider may seek payment for services from Medicaid enrollees who are eligible for but not enrolled in Medicare Part B."

### **MEDICAID ASSESSMENT PROGRAM FOR SKILLED NURSING FACILITIES**

**SECTION 10.28.(a)** The Secretary of Health and Human Services shall implement a Medicaid assessment program for skilled nursing facilities licensed under Chapter 131E of the General Statutes. The assessment shall be imposed in a manner consistent with federal regulations under 42 C.F.R. Part 433, Subpart B. The Department shall impose the assessment effective October 1, 2003. Funds realized from assessments imposed shall be used only to draw down federal Medicaid matching funds for implementing the new reimbursement plan for nursing homes and for increasing nursing facility rates in accordance with the plan.

**SECTION 10.28.(b)** Funds realized from the Medicaid assessment program established pursuant to subsection (a) of this section shall not be used to supplant State funds appropriated for nursing facility services.

**SECTION 10.28.(c)** Funds realized from the assessment shall be used to pay one hundred percent (100%) of the nonfederal share for the new reimbursement plan for nursing homes.

### **HEALTH CHOICE**

**SECTION 10.29.(a)** G.S. 108A-70.21 reads as rewritten:

**"§ 108A-70.21. Program eligibility; benefits; enrollment fee and other cost-sharing; coverage from private plans; purchase of extended coverage.**

(a) Eligibility. – The Department may enroll eligible children based on availability of funds. Following are eligibility and other requirements for participation in the Program:

- (1) Children must:
  - a. Be under the age of 19;
  - b. Be ineligible for Medicaid, Medicare, or other federal government-sponsored health insurance;
  - c. Be uninsured;



- d. Be in a family that meets the following family income requirements:
    - 1. Infants under the age of one year whose family income is from one hundred eighty-five percent (185%) through two hundred percent (200%) of the federal poverty level;
    - 2. Children age one year through five years whose family income is above one hundred thirty-three percent (133%) through two hundred percent (200%) of the federal poverty level; and
    - 3. Children age six years through eighteen years whose family income is above one hundred percent (100%) through two hundred percent (200%) of the federal poverty level;
  - e. Be a resident of this State and eligible under federal law; and
  - f. Have paid the Program enrollment fee required under this Part.
- (2) Proof of family income and residency and declaration of uninsured status shall be provided by the applicant at the time of application for Program coverage. The family member who is legally responsible for the children enrolled in the Program has a duty to report any change in the enrollee's status within 60 days of the change of status.
- (3) If a responsible parent is under a court order to provide or maintain health insurance for a child and has failed to comply with the court order, then the child is deemed uninsured for purposes of determining eligibility for Program benefits if at the time of application the custodial parent shows proof of agreement to notify and cooperate with the child support enforcement agency in enforcing the order.
- If health insurance other than under the Program is provided to the child after enrollment and prior to the expiration of the eligibility period for which the child is enrolled in the Program, then the child is deemed to be insured and ineligible for continued coverage under the Program. The custodial parent has a duty to notify the Department within 10 days of receipt of the other health insurance, and the Department, upon receipt of notice, shall disenroll the child from the Program. As used in this paragraph, the term "responsible parent" means a person who is under a court order to pay child support.
- (4) Except as otherwise provided in this section, enrollment shall be continuous for one year. At the end of each year, applicants may reapply for Program benefits.

(b) **Benefits.** – Except as otherwise provided for eligibility, fees, deductibles, copayments, and other cost-sharing charges, health benefits coverage provided to children eligible under the Program shall be equivalent to coverage provided for dependents under the North Carolina Teachers' and State Employees' Comprehensive Major Medical Plan, including optional prepaid plans. Prescription drug providers shall accept as payment in full, for outpatient prescriptions filled, ninety percent (90%) of the average wholesale price for the prescription drug or the amounts published by the Centers for Medicare and Medicaid Services plus a dispensing fee of five dollars and sixty cents (\$5.60) per prescription for generic drugs and four dollars (\$4.00) per prescription for brand name drugs. All other health care providers providing services to Program enrollees shall accept as payment in full for services rendered the maximum

allowable charges under the North Carolina Teachers' and State Employees' Comprehensive Major Medical Plan for services less any copayments assessed to enrollees under this Part. No child enrolled in the Plan's self-insured indemnity program shall be required by the Plan to change health care providers as a result of being enrolled in the Program.

In addition to the benefits provided under the Plan, the following services and supplies are covered under the Health Insurance Program for Children established under this Part:

- (1) Dental: Oral examinations, teeth cleaning, and scaling twice during a 12-month period, full mouth X-rays once every 60 months, supplemental bitewing X-rays showing the back of the teeth once during a 12-month period, fluoride applications twice during a 12-month period, fluoride varnish, sealants, simple extractions, therapeutic pulpotomies, prefabricated stainless steel crowns, and routine fillings of amalgam or other tooth-colored filling material to restore diseased teeth. No benefits are to be provided for services under this subsection that are not performed by or upon the direction of a dentist, doctor, or other professional provider approved by the Plan nor for services and materials that do not meet the standards accepted by the American Dental Association.
- (2) Vision: Scheduled routine eye examinations once every 12 months, eyeglass lenses or contact lenses once every 12 months, routine replacement of eyeglass frames once every 24 months, and optical supplies and solutions when needed. Optical services, supplies, and solutions must be obtained from licensed or certified ~~optamologists~~, ophthalmologists, optometrists, or optical dispensing laboratories. Eyeglass lenses are limited to single vision, bifocal, trifocal, or other complex lenses necessary for a Plan enrollee's visual welfare. Coverage for oversized lenses and frames, designer frames, photosensitive lenses, tinted contact lenses, blended lenses, progressive multifocal lenses, coated lenses, and laminated lenses is limited to the coverage for single vision, bifocal, trifocal, or other complex lenses provided by this subsection. Eyeglass frames are limited to those made of zylonite, metal, or a combination of zylonite and metal. All visual aids covered by this subsection require prior approval of the Plan. Upon prior approval by the Plan, refractions may be covered more often than once every 12 months.
- (3) Hearing: Auditory diagnostic testing services and hearing aids and accessories when provided by a licensed or certified audiologist, otolaryngologist, or other hearing aid specialist approved by the Plan. Prior approval of the Plan is required for hearing aids, accessories, earmolds, repairs, loaners, and rental aids.

The Department may provide services to children aged birth through five years enrolled in the Program through the State Medical Assistance managed care program. Services provided through the managed care program shall be paid from Program funds.

(c) Annual Enrollment Fee. – There shall be no enrollment fee for Program coverage for enrollees whose family income is at or below one hundred fifty percent (150%) of the federal poverty level. The enrollment fee for Program coverage for enrollees whose family income is above one hundred fifty percent (150%) of the federal

poverty level shall be fifty dollars (\$50.00) per year per child with a maximum annual enrollment fee of one hundred dollars (\$100.00) for two or more children. The enrollment fee shall be collected by the county department of social services and retained to cover the cost of determining eligibility for services under the Program. County departments of social services shall establish procedures for the collection of enrollment fees.

(d) Cost-Sharing. – There shall be no deductibles, copayments, or other cost-sharing charges for families covered under the Program whose family income is at or below one hundred fifty percent (150%) of the federal poverty level. level, except that fees for outpatient prescription drugs are applicable and shall be one dollar (\$1.00) for each outpatient generic prescription drug and for each outpatient brand-name prescription drug for which there is no generic substitution available. The fee for each outpatient brand-name prescription drug for which there is a generic substitution available is three dollars (\$3.00). Families covered under the Program whose family income is above one hundred fifty percent (150%) of the federal poverty level shall be responsible for copayments to providers as follows:

- (1) Five dollars (\$5.00) per child for each visit to a provider, except that there shall be no copayment required for well-baby, well-child, or age-appropriate immunization services;
- (2) Five dollars (\$5.00) per child for each outpatient hospital visit;
- (3) ~~A six dollar (\$6.00) fee for each outpatient prescription drug purchased;~~ one dollar (\$1.00) fee for each outpatient generic prescription drug and for each outpatient brand-name prescription drug for which there is no generic substitution available. The fee for each outpatient brand-name prescription drug for which there is a generic substitution available is ten dollars (\$10.00).
- (4) Twenty dollars (\$20.00) for each emergency room visit unless:
  - a. The child is admitted to the hospital, or
  - b. No other reasonable care was available as determined by the Claims Processing Contractor of the North Carolina Teachers' and State Employees' Comprehensive Major Medical Plan.

Copayments required under this subsection for prescription drugs apply only to prescription drugs prescribed on an outpatient basis.

(e) Cost-Sharing Limitations. – The total annual aggregate cost-sharing, including fees, with respect to all children in a family receiving Program benefits under this Part shall not exceed five percent (5%) of the family's income for the year involved. To assist the Department in monitoring and ensuring that the limitations of this subsection are not exceeded, the Executive Administrator and Board of Trustees of the North Carolina Teachers' and State Employees' Comprehensive Major Medical Plan shall provide data to the Department showing cost-sharing paid by Program enrollees.

(f) Coverage From Private Plans. – The Department shall, from funds available for the Program, pay the cost for dependent coverage provided under a private insurance plan for persons eligible for coverage under the Program if all of the following conditions are met:

- (1) The person eligible for Program coverage requests to obtain dependent coverage from a private insurer in lieu of coverage under the Program and shows proof that coverage under the private plan selected meets the requirements of this subsection;

- (2) The dependent coverage under the private plan is actuarially equivalent to the coverage provided under the Program and the private plan does not engage in the exclusive enrollment of children with favorable health care risks;
- (3) The cost of dependent coverage under the private plan is the same as or less than the cost of coverage under the Program; and
- (4) The total annual aggregate cost-sharing, including fees, paid by the enrollee under the private plan for all dependents covered by the plan, do not exceed five percent (5%) of the enrollee's family income for the year involved.

The Department may reimburse an enrollee for private coverage under this subsection upon a showing of proof that the dependent coverage is in effect for the period for which the enrollee is eligible for the Program.

(g) Purchase of Extended Coverage. – An enrollee in the Program who loses eligibility due to an increase in family income above two hundred percent (200%) of the federal poverty level and up to and including two hundred twenty-five percent (225%) of the federal poverty level may purchase at full premium cost continued coverage under the Program for a period not to exceed one year beginning on the date the enrollee becomes ineligible under the income requirements for the Program. The same benefits, copayments, and other conditions of enrollment under the Program shall apply to extended coverage purchased under this subsection.

(h) No State Funds for Voluntary Participation. – No State or federal funds shall be used to cover, subsidize, or otherwise offset the cost of coverage obtained under subsection (g) of this section."

**SECTION 10.29.(b)** G.S. 108A-70.23(c) reads as rewritten:

"(c) Services Provided. – The services authorized to be provided to children eligible under this section are as follows:

- (1) The same level of services as provided for special needs children under the Medical Assistance Program as authorized in the Current Operations Appropriations Act except ~~that that~~:
  - a. ~~no~~ No services for long-term care shall be provided under this section, ~~and section~~;
  - b. ~~except that services~~ Services for respite care shall be provided only under emergency circumstances; and
  - c. The Department may limit services for special needs children after consultation with the Commission on Children with Special Health Care Needs.
- (2) Only those services eligible under this section that are not covered or otherwise provided under Part 5 of Article 3 of Chapter 135 of the General Statutes."

**COLLABORATION AMONG DHHS, DPI, AND LEAS TO ENSURE  
MEDICAID-RELATED SERVICES FOR ELIGIBLE PUBLIC SCHOOL  
STUDENTS WITH DISABILITIES**

**SECTION 10.29A.** Part 6 of Article 2 of Chapter 108A of the General Statutes is amended by adding the following new section to read:

**"§ 108A-55.1. Collaboration among agencies to ensure Medicaid-related services payments to eligible students with disabilities in public schools.**

The Department shall work with the Department of Public Instruction and local education agencies to develop efficient, effective, and appropriate administrative procedures and guidelines to provide maximum funding for Medicaid-related services for Medicaid-eligible students with disabilities. The procedures and guidelines shall be streamlined to ensure that local education agencies receive Medicaid reimbursement in a timely manner for Medicaid-related services and administrative outreach to Medicaid-eligible students with disabilities."

#### **AUDIT OF CAP/DA PROGRAMS BY STATE AUDITOR**

**SECTION 10.29B.(a)** If State funds are appropriated to the Office of State Auditor for this purpose, then the State Auditor shall perform an audit of the Community Alternatives Program for Disabled Adults (CAP/DA). The audit shall build upon the results of the study conducted in accordance with Section 10.16(c) of S.L. 2002-126, by the North Carolina Institute of Medicine and shall provide information necessary to determine whether CAP/DA is operating within waiver guidelines and program goals. The State Auditor shall report the results of the audit to the North Carolina Study Commission on Aging by January 1, 2004.

**SECTION 10.29B.(b)** The Department of Health and Human Services shall continue to examine CAP/DA and shall make a report of its findings to the North Carolina Study Commission on Aging by January 1, 2004. The report shall include the following information:

- (1) A review of the current assessment process for CAP/DA clients, including an explanation of how assessments are conducted and a comparison of the assessment process for CAP/DA clients with the assessment process for nursing home and adult care home clients.
- (2) A description of total program costs to the State and counties for clients receiving CAP/DA payments and an analysis of per-client costs in CAP/DA to per-client costs in nursing homes and adult care homes. This analysis shall include the costs of all forms of assistance received by CAP/DA clients, such as food stamps and housing assistance.
- (3) A description of total program costs and an analysis of per-participant costs for individuals in the State-County In-Home Program. The analysis shall include a comparison of per-client costs for participants in the In-Home Program to per-client costs in adult care homes.
- (4) A description of total program costs and an analysis of per-person costs for persons receiving personal care services through the Medicaid program. The analysis shall include a comparison of per-person costs in nursing homes and adult care homes.
- (5) A description of the monitoring of quality of care for CAP/DA clients.
- (6) An evaluation of the current waiting list procedures.

**SECTION 10.29B.(c)** The Department of Health and Human Services shall review, on a pilot basis, a selected number of CAP/DA programs to determine compliance with eligibility requirements for the program. The Department shall include the results of the review in its report to the Study Commission on Aging required under subsection (b) of this section.

#### **MEDICAID HOSPITAL PAYMENTS**

**SECTION 10.29C.** The Department of Health and Human Services shall evaluate all medical payment programs and policies administered by the Department

that may affect the future viability and sustainability of financially vulnerable hospitals. Based on the evaluation of the medical payment programs and policies affecting hospitals, the Department shall implement those programs and policies such that they have the least impact on the future viability and sustainability of financially vulnerable hospitals. The Department shall also review the status of financially vulnerable hospitals to determine whether additional State actions are appropriate to ensure that communities served by these hospitals continue to receive essential medical services. The Department shall consult with the North Carolina Hospital Association while conducting the evaluation of medical payment programs and policies and determining how to implement them. The Department shall report to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division on its activities under this section not later than November 1, 2003.

#### **SUBPART 4. DIVISION OF PUBLIC HEALTH**

##### **IMMUNIZATION PROGRAM FUNDING**

**SECTION 10.30.(a)** Of the funds appropriated in this act to the Department of Health and Human Services for childhood immunization programs for positions, operating support, equipment, and pharmaceuticals, the sum of one million dollars (\$1,000,000) for the 2003-2004 fiscal year and the sum of one million dollars (\$1,000,000) for the 2004-2005 fiscal year may be used for projects and activities that are also designed to increase childhood immunization rates in North Carolina. These projects and activities shall include the following:

- (1) Outreach efforts at the State and local levels to improve service delivery of vaccines. Outreach efforts may include educational seminars, media advertising, support services to parents to enable children to be transported to clinics, longer operating hours for clinics, and mobile vaccine units.
- (2) Continued development of an automated immunization registry.

**SECTION 10.30.(b)** Funds authorized to be used for immunization efforts under subsection (a) of this section shall not be used to fund additional State positions in the Department of Health and Human Services or contracts, except for contracts to develop an automated immunization registry or contracts with local health departments for outreach.

##### **AIDS DRUG ASSISTANCE PROGRAM (ADAP)**

**SECTION 10.31.(a)** For the 2003-2004 fiscal year and for the 2004-2005 fiscal year, HIV-positive individuals with incomes at or below one hundred twenty-five percent (125%) of the federal poverty level are eligible for participation in ADAP. Eligibility for participation in ADAP during the 2003-2005 fiscal biennium shall not be extended to individuals with incomes above one hundred twenty-five percent (125%) of the federal poverty level.

**SECTION 10.31.(b)** The Department of Health and Human Services shall make an interim report on ADAP program utilization by January 1, 2004, and a final report on ADAP program utilization by May 1, 2004, to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division on ADAP. The reports shall include the following:

- (1) ADAP program utilization:
  - a. Monthly data on total cumulative AIDS/HIV cases reported in North Carolina.
  - b. Monthly data on the number of individuals who have applied to participate in ADAP that have been determined to be ineligible.
  - c. Monthly data on the income level of participants in ADAP and of individuals who have applied to participate in ADAP who have been determined to be ineligible.
  - d. Monthly data on fiscal year-to-date expenditures of ADAP. The interim report shall contain monthly data on the calendar year-to-date expenditures of ADAP.
  - e. An update on the status of the information management system.
  - f. Monthly data on ADAP usage patterns and demographics of participants in ADAP.
  - g. Fiscal year-to-date budget information.

#### **ADAP INCOME ELIGIBILITY**

**SECTION 10.31A.(a)** It is the intent of the General Assembly to assist citizens of North Carolina who are diagnosed with HIV/AIDS to live healthy and productive lives. In keeping with this goal, the Department of Health and Human Services shall pursue alternatives to the current financing of the AIDS Drug Assistance Program (ADAP). Notwithstanding Section 10.31 of this act, the Department shall explore various options or arrangements in order to expand income eligibility for ADAP. The Department may develop and administer an expanded ADAP that maximizes existing State funds. The expanded ADAP may include an increase in current income eligibility levels.

**SECTION 10.31A.(b)** Nothing in this section shall be construed as obligating the General Assembly to appropriate funds for the expanded AIDS Drug Assistance Program or as entitling any person to receive services under the Program.

**SECTION 10.31A.(c)** The Department of Health and Human Services shall report its progress in complying with this section and any corresponding findings and recommendations to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division on or before April 1, 2004.

#### **NEWBORN HEARING SCREENING PROGRAM REPORT**

**SECTION 10.32.** The Department of Health and Human Services shall report the following information on the newborn hearing screening program:

- (1) Unduplicated number of infants screened.
- (2) Number of infants who failed the second hearing screening.
- (3) Number of infants receiving the diagnostic evaluation.
- (4) Number and types of services provided.
- (5) Number and types of follow-up services provided to children.

The Department shall submit the report not later than May 1, 2004, to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division.

**EMPLOYEES EXAMINED FOR ASBESTOSIS OR SILICOSIS UNDER WORKERS' COMPENSATION STATUTE**

**SECTION 10.33.(a)** G.S. 97-60 is repealed.

**SECTION 10.33.(b)** G.S. 97-61.1 reads as rewritten:

**"§ 97-61.1. First examination of and report on employee having asbestosis or silicosis.**

When ~~an employee and the Industrial Commission are~~ is advised by ~~the Department of Health and Human Services~~ an employer or employee that an employee has or allegedly has asbestosis or silicosis, ~~the employer shall be notified by the Industrial Commission, and the employee, when ordered by the Industrial Commission, shall go to a place designated by the Industrial Commission and submit to X rays and a physical examination by the advisory medical committee or other designated qualified physician who is not a member of the advisory medical committee, at least one of whom shall conduct the examination, and the member or members of the advisory medical committee conducting the examination shall forward the X rays and findings to the member or members of the committee not present for the physical examination.~~ The employer shall pay the expenses connected with the examination by the advisory medical committee or other designated qualified physician who is not a member of the advisory medical committee in such amounts as shall be directed by the Industrial Commission. Within 30 days after the completion of the examination, ~~the advisory medical committee or other designated qualified physician shall make a written report signed by all of its members~~ shall submit a written report to the Industrial Commission setting forth:

- (1) The X rays and clinical procedures ~~used by the committee in arriving at its findings used.~~
- (2) Whether or not the claimant has contracted asbestosis or silicosis.
- (3) ~~The committee's~~ The advisory medical committee's or designated qualified physician's opinion expressed in percentages of the impairment of the employee's ability to perform normal labor in the same or any other employment.
- (4) Any other matter deemed ~~pertinent by the committee~~ pertinent.

When a competent physician certifies to the Industrial Commission that the employee's physical condition is such that his movement to the place of examination ordered by the Industrial Commission as herein provided in G.S. 97-61.1, 97-61.3 and 97-61.4 would be harmful or injurious to the health of the employee, the Industrial Commission shall cause the examination of the employee to be made by the advisory medical committee or other designated qualified physician as herein provided at some place in the vicinity of the residence of the employee suitable for the purposes of making such examination."

**SECTION 10.33.(c)** G.S. 97-72(b) is repealed.

**SECTION 10.33.(d)** G.S. 97-73(b) and (c) are repealed.

**SECTION 10.33.(e)** The Department of Health and Human Services shall develop a plan for the future storage or disposal of X ray files. In doing so, the Division of Public Health shall consider disposal of the files, archiving the files by digitizing them, or returning the files to the medical facility that conducted the X ray. The Department shall report on its activities under this subsection no later than March 1, 2004, to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division.



**SECTION 10.33.(f)** G.S. 97-75 and G.S. 97-76 are repealed.

**RENAME NORTH CAROLINA HEART DISEASE AND STROKE PREVENTION TASK FORCE**

**SECTION 10.33B.** G.S. 143B-216.60 reads as rewritten:

"§ 143B-216.60. ~~North Carolina~~The Justus-Warren Heart Disease and Stroke Prevention Task Force.

(a) The ~~North Carolina~~Justus-Warren Heart Disease and Stroke Prevention Task Force is created in the Department of Health and Human Services.

(b) The Task Force shall have 27 members. The Governor shall appoint the Chair, and the Vice-Chair shall be elected by the Task Force. The Director of the Department of Health and Human Services, the Director of the Division of Medical Assistance in the Department of Health and Human Services, and the Director of the Division of Aging in the Department of Health and Human Services, or their designees, shall be members of the Task Force. Appointments to the Task Force shall be made as follows:

- (1) By the General Assembly upon the recommendation of the President Pro Tempore of the Senate, as follows:
  - a. Three members of the Senate;
  - b. A heart attack survivor;
  - c. A local health director;
  - d. A certified health educator;
  - e. A hospital administrator; and
  - f. A representative of the North Carolina Association of Area Agencies on Aging.
- (2) By the General Assembly upon the recommendation of the Speaker of the House of Representatives, as follows:
  - a. Three members of the House of Representatives;
  - b. A stroke survivor;
  - c. A county commissioner;
  - d. A licensed dietitian/nutritionist;
  - e. A pharmacist; and
  - f. A registered nurse.
- (3) By the Governor, as follows:
  - a. A practicing family physician, pediatrician, or internist;
  - b. A president or chief executive officer of a business upon recommendation of a North Carolina wellness council which is a member of the Wellness Councils of America;
  - c. A news director of a newspaper or television or radio station;
  - d. A volunteer of the North Carolina Affiliate of the American Heart Association;
  - e. A representative from the North Carolina Cooperative Extension Service;
  - f. A representative of the Governor's Council on Physical Fitness and Health; and
  - g. Two members at large.

(c) Each appointing authority shall assure insofar as possible that its appointees to the Task Force reflect the composition of the North Carolina population with regard to ethnic, racial, age, gender, and religious composition.

(d) The General Assembly and the Governor shall make their appointments to the Task Force not later than 30 days after the adjournment of the 1995 General Assembly, Regular Session 1995. A vacancy on the Task Force shall be filled by the original appointing authority, using the criteria set out in this section for the original appointment.

(e) The Task Force shall meet at least quarterly or more frequently at the call of the Chair.

(f) The Task Force Chair may establish committees for the purpose of making special studies pursuant to its duties, and may appoint non-Task Force members to serve on each committee as resource persons. Resource persons shall be voting members of the committees and shall receive subsistence and travel expenses in accordance with G.S. 138-5 and G.S. 138-6. Committees may meet with the frequency needed to accomplish the purposes of this section.

(g) Members of the Task Force shall receive per diem and necessary travel and subsistence expenses in accordance with G.S. 120-3.1, 138-5 and 138-6, as applicable.

(h) A majority of the Task Force shall constitute a quorum for the transaction of its business.

(i) The Task Force may use funds allocated to it to establish two positions and for other expenditures needed to assist the Task Force in carrying out its duties.

(j) The ~~Heart Disease and Stroke Prevention~~ Task Force has the following duties:

- (1) To undertake a statistical and qualitative examination of the incidence of and causes of heart disease and stroke deaths and risks, including identification of subpopulations at highest risk for developing heart disease and stroke, and establish a profile of the heart disease and stroke burden in North Carolina.
- (2) To publicize the profile of the heart disease and stroke burden and its preventability in North Carolina.
- (3) To identify priority strategies which are effective in preventing and controlling risks for heart disease and stroke.
- (4) To identify, examine limitations of, and recommend to the Governor and the General Assembly changes to existing laws, regulations, programs, services, and policies to enhance heart disease and stroke prevention by and for the people of North Carolina.
- (5) To determine and recommend to the Governor and the General Assembly the funding and strategies needed to enact new or to modify existing laws, regulations, programs, services, and policies to enhance heart disease and stroke prevention by and for the people of North Carolina.
- (6) To adopt and promote a statewide comprehensive Heart Disease and Stroke Prevention Plan to the general public, State and local elected officials, various public and private organizations and associations, businesses and industries, agencies, potential funders, and other community resources.
- (7) To identify and facilitate specific commitments to help implement the Plan from the entities listed in subdivision (6) above.
- (8) To facilitate coordination of and communication among State and local agencies and organizations regarding current or future involvement in achieving the aims of the Heart Disease and Stroke Prevention Plan.

- (9) To receive and consider reports and testimony from individuals, local health departments, community-based organizations, voluntary health organizations, and other public and private organizations statewide, to learn more about their contributions to heart disease and stroke prevention, and their ideas for improving heart disease and stroke prevention in North Carolina.

(k) Notwithstanding Section 11.57 of S.L. 1999-237, the Task Force shall submit a final report to the Governor and the General Assembly by June 30, 2003, and a report to each subsequent regular legislative session within one week of its convening."

#### **LOCAL HEALTH DIRECTOR PILOT**

**SECTION 10.33C.** Article 2 of Chapter 130A of the General Statutes is amended by adding a new section to read:

**"§ 130A-40.1. Pilot program for nurse as health director.**

(a) Notwithstanding G.S. 130A-40, a local board of health, after consulting with the appropriate county board of commissioners, and with the approval of the Secretary of Health and Human Services, may appoint a local health director who meets the following education and experience requirements for that position:

- (1) Graduation from a four-year college or university with a Bachelor of Science in Nursing degree that includes a public health nursing rotation; or
- (2) A candidate with an RN but not a bachelors degree if the candidate has at least 10 years' experience, at least seven years of which must be in an administrative or supervisory role, and of this seven years, at least five years must be at the agency at which the candidate is an applicant for employment as local health director.

(b) The Secretary of Health and Human Services may approve only one request under subsection (a) of this section, this section being designed as a pilot program concerning alternative qualifications for a local health director. The Secretary of Health and Human Services shall report any approval under this section to the Public Health Study Commission.

(c) All bachelors level candidates appointed under this section shall have a total of 10 years' public health experience, at least five years of which must be in a supervisory capacity at the agency at which the candidate is an applicant for employment as a local health director. Bachelor of Science in Nursing candidates with a public health rotation may use this BSN degree as credit for one year's public health experience.

(d) In addition to possessing the qualifications required in this section, all Bachelor of Science, Bachelor of Arts, or Registered Nurse candidates must complete at least six contact hours of continuing education annually on the subject of local and State government finance, organization, or budgeting. The training must be in a formal setting offered through the State or local government or through an accredited educational institution. This training is in addition to any other required training for local health director or other continuing education required to maintain other professional credentials. If during the course of employment as local health director the employee meets the requirements of this subsection, the additional training requirements of this section are waived.

**SUBPART 5. DIVISION OF CHILD DEVELOPMENT****CHILD CARE FUNDS MATCHING REQUIREMENT**

**SECTION 10.34.** No local matching funds may be required by the Department of Health and Human Services as a condition of any locality's receiving any State child care funds appropriated by this act unless federal law requires a match. This shall not prohibit any locality from spending local funds for child care services.

**CHILD CARE SUBSIDY RATES**

**SECTION 10.35.(a)** The maximum gross annual income for initial eligibility, adjusted biennially, for subsidized child care services shall be seventy-five percent (75%) of the State median income, adjusted for family size.

**SECTION 10.35.(b)** Fees for families who are required to share in the cost of care shall be established based on a percent of gross family income and adjusted for family size. Fees shall be determined as follows:

FAMILY SIZE	PERCENT OF GROSS FAMILY INCOME
1-3	10%
4-5	9%
6 or more	8%.

**SECTION 10.35.(c)** Payments for the purchase of child care services for low-income children shall be in accordance with the following requirements:

- (1) Religious-sponsored child care facilities operating pursuant to G.S. 110-106 and licensed child care centers and homes that meet the minimum licensing standards that are participating in the subsidized child care program shall be paid the one-star county market rate or the rate they charge privately paying parents, whichever is lower.
- (2) Licensed child care centers and homes with two or more stars shall receive the market rate for that rated license level for that age group or the rate they charge privately paying parents, whichever is lower.
- (3) Nonlicensed homes shall receive fifty percent (50%) of the county market rate or the rate they charge privately paying parents, whichever is lower.
- (4) Maximum payment rates shall also be calculated periodically by the Division of Child Development for transportation to and from child care provided by the child care provider, individual transporter, or transportation agency, and for fees charged by providers to parents. These payment rates shall be based upon information collected by market rate surveys.

**SECTION 10.35.(d)** Provision of payment rates for child care providers in counties that do not have at least 50 children in each age group for center-based and home-based care are as follows:

- (1) Except as applicable in subdivision (2) of this subsection, payment rates shall be set at the statewide or regional market rate for licensed child care centers and homes.
- (2) If it can be demonstrated that the application of the statewide or regional market rate to a county with fewer than 50 children in each age group is lower than the county market rate and would inhibit the ability of the county to purchase child care for low-income children, then the county market rate may be applied.

**SECTION 10.35.(e)** A market rate shall be calculated for child care centers and homes at each rated license level for each county and for each age group or age category of enrollees and shall be representative of fees charged to unsubsidized privately paying parents for each age group of enrollees within the county. The Division of Child Development shall also calculate a statewide rate and regional market rates for each rated license level for each age category.

**SECTION 10.35.(f)** Facilities licensed pursuant to Article 7 of Chapter 110 of the General Statutes and facilities operated pursuant to G.S. 110-106 may participate in the program that provides for the purchase of care in child care facilities for minor children of needy families. No separate licensing requirements shall be used to select facilities to participate. In addition, child care facilities shall be required to meet any additional applicable requirements of federal law or regulations. Child care arrangements exempt from State regulation pursuant to Article 7 of Chapter 110 of the General Statutes shall meet the requirements established by other State law and by the Social Services Commission.

County departments of social services or other local contracting agencies shall not use a provider's failure to comply with requirements in addition to those specified in this subsection as a condition for reducing the provider's subsidized child care rate.

**SECTION 10.35.(g)** Payment for subsidized child care services provided with Work First Block Grant funds shall comply with all regulations and policies issued by the Division of Child Development for the subsidized child care program.

**SECTION 10.35.(h)** Noncitizen families who reside in this State legally shall be eligible for child care subsidies if all other conditions of eligibility are met. If all other conditions of eligibility are met, noncitizen families who reside in this State illegally shall be eligible for child care subsidies only if at least one of the following conditions is met:

- (1) The child for whom a child care subsidy is sought is receiving child protective services or foster care services.
- (2) The child for whom a child care subsidy is sought is developmentally delayed or at risk of being developmentally delayed.
- (3) The child for whom a child care subsidy is sought is a citizen of the United States.

#### **CHILD CARE ALLOCATION FORMULA**

**SECTION 10.36.(a)** The Department of Health and Human Services shall allocate child care subsidy voucher funds to pay the costs of necessary child care for minor children of needy families. The mandatory thirty percent (30%) Smart Start subsidy allocation under G.S. 143B-168.15(g) shall constitute the base amount for each county's child care subsidy allocation. The Department of Health and Human Services shall use the following method when allocating federal and State child care funds, not including the aggregate mandatory thirty percent (30%) Smart Start subsidy allocation:

- (1) Funds shall be allocated based upon the projected cost of serving children in a county under age 11 in families with all parents working who earn less than seventy-five percent (75%) of the State median income.
- (2) No county's allocation shall be less than ninety percent (90%) of its State Fiscal Year 2001-2002 initial child care subsidy allocation.

**SECTION 10.36.(b)** The Department of Health and Human Services may reallocate unused child care subsidy voucher funds in order to meet the child care needs of low-income families. Any reallocation of funds shall be based upon the expenditures of all child care subsidy voucher funding, including Smart Start funds, within a county.

#### **CHILD CARE REVOLVING LOAN**

**SECTION 10.37.** Notwithstanding any law to the contrary, funds budgeted for the Child Care Revolving Loan Fund may be transferred to and invested by the financial institution contracted to operate the Fund. The principal and any income to the Fund may be used to make loans, reduce loan interest to borrowers, serve as collateral for borrowers, pay the contractor's cost of operating the Fund, or pay the Department's cost of administering the program.

#### **EARLY CHILDHOOD EDUCATION AND DEVELOPMENT INITIATIVES ENHANCEMENTS**

**SECTION 10.38.(a)** Administrative costs shall be equivalent to, on an average statewide basis for all local partnerships, not more than eight percent (8%) of the total statewide allocation to all local partnerships. For purposes of this subsection, administrative costs shall include costs associated with partnership oversight, business and financial management, general accounting, human resources, budgeting, purchasing, contracting, and information systems management.

**SECTION 10.38.(b)** The North Carolina Partnership for Children, Inc., and all local partnerships shall use competitive bidding practices in contracting for goods and services on contract amounts as follows:

- (1) For amounts of five thousand dollars (\$5,000) or less, the procedures specified by a written policy to be developed by the Board of Directors of the North Carolina Partnership for Children, Inc.
- (2) For amounts greater than five thousand dollars (\$5,000), but less than fifteen thousand dollars (\$15,000), three written quotes.
- (3) For amounts of fifteen thousand dollars (\$15,000) or more, but less than forty thousand dollars (\$40,000), a request for proposal process.
- (4) For amounts of forty thousand dollars (\$40,000) or more, a request for proposal process and advertising in a major newspaper.

**SECTION 10.38.(c)** The North Carolina Partnership for Children, Inc., and all local partnerships shall, in the aggregate, be required to match no less than fifty percent (50%) of the total amount budgeted for the program in each fiscal year of the biennium as follows: contributions of cash equal to at least fifteen percent (15%) and in-kind donated resources equal to no more than five percent (5%) for a total match requirement of twenty percent (20%) for each fiscal year. The North Carolina Partnership for Children, Inc., may carry forward any amount in excess of the required match for a fiscal year in order to meet the match requirement of the succeeding fiscal year. Only in-kind contributions that are quantifiable shall be applied to the in-kind match requirement. Volunteer services may be treated as an in-kind contribution for the purpose of the match requirement of this subsection. Volunteer services that qualify as professional services shall be valued at the fair market value of those services. All other volunteer service hours shall be valued at the statewide average wage rate as calculated from data compiled by the Employment Security Commission in the Employment and Wages in North Carolina Annual Report for the most recent period for which data are available. Expenses, including both those paid by cash and in-kind contributions,

incurred by other participating non-State entities contracting with the North Carolina Partnership for Children, Inc., or the local partnerships, also may be considered resources available to meet the required private match. In order to qualify to meet the required private match, the expenses shall:

- (1) Be verifiable from the contractor's records.
- (2) If in-kind, other than volunteer services, be quantifiable in accordance with generally accepted accounting principles for nonprofit organizations.
- (3) Not include expenses funded by State funds.
- (4) Be supplemental to and not supplant preexisting resources for related program activities.
- (5) Be incurred as a direct result of the Early Childhood Initiatives Program and be necessary and reasonable for the proper and efficient accomplishment of the Program's objectives.
- (6) Be otherwise allowable under federal or State law.
- (7) Be required and described in the contractual agreements approved by the North Carolina Partnership for Children, Inc., or the local partnership.
- (8) Be reported to the North Carolina Partnership for Children, Inc., or the local partnership by the contractor in the same manner as reimbursable expenses.

Failure to obtain a twenty percent (20%) match by June 30 of each fiscal year shall result in a dollar-for-dollar reduction in the appropriation for the Program for a subsequent fiscal year. The North Carolina Partnership for Children, Inc., shall be responsible for compiling information on the private cash and in-kind contributions into a report that is submitted to the Joint Legislative Commission on Governmental Operations in a format that allows verification by the Department of Revenue. The same match requirements shall apply to any expansion funds appropriated by the General Assembly.

**SECTION 10.38.(d)** The Department of Health and Human Services shall continue to implement the performance-based evaluation system.

**SECTION 10.38.(e)** The Department of Health and Human Services and the North Carolina Partnership for Children, Inc., shall ensure that the allocation of funds for Early Childhood Education and Development Initiatives for State fiscal years 2003-2004 and 2004-2005 shall be administered and distributed in the following manner:

- (1) The North Carolina Partnership for Children, Inc., shall develop a policy to allocate the reduction of funds for Early Childhood Education and Development Initiatives for the 2003-2004 and 2004-2005 fiscal years.
- (2) Capital expenditures and playground equipment expenditures are prohibited for fiscal years 2003-2004 and 2004-2005. For the purposes of this section, "capital expenditures" means expenditures for capital improvements as defined in G.S. 143-34.40.
- (3) Expenditures of State funds for advertising and promotional activities are prohibited for fiscal years 2003-2004 and 2004-2005.

**SECTION 10.38.(f)** For the 2003-2004 and 2004-2005 fiscal years, the North Carolina Partnership for Children, Inc., shall not approve local partnership plans that allocate State funds to child care providers for one-time quality improvement initiatives in the following circumstances:

- (1) Child care facilities with licensure of four or five stars, unless the expenditure of funds is to expand capacity for low-income children.
- (2) Child care facilities that do not accept child care subsidy funds.

**SECTION 10.38.(g)** For the 2003-2004 fiscal year, the local partnerships shall spend an amount for child care subsidies that provides at least fifty-two million dollars (\$52,000,000) for the TANF maintenance of effort requirement and the Child Care Development Fund and Block Grant match requirement.

**SECTION 10.38.(h)** A county may use the county's allocation of State and federal child care funds to subsidize child care according to the county's Early Childhood Education and Development Initiatives Plan as approved by the North Carolina Partnership for Children, Inc. The use of federal funds shall be consistent with the appropriate federal regulations. Child care providers shall, at a minimum, comply with the applicable requirements for State licensure pursuant to Article 7 of Chapter 110 of the General Statutes.

**SECTION 10.38.(i)** The North Carolina Partnership for Children, Inc., shall develop a plan to focus on quality child care initiatives and child care subsidies and shall study any duplication of health services, family support, and program support activities and report same to the House of Representatives and Senate Appropriations Chairs.

**SECTION 10.38.(j)** The North Carolina Partnership for Children, Inc., shall develop a plan to incorporate a penalty into a local partnership's allocation when the local partnership's audit is classified as a "needs improvement performance assessment".

**SECTION 10.38.(k)** The North Carolina Partnership for Children, Inc., shall report on activities and directives of this act by March 1, 2004, to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division.

**SECTION 10.38.(l)** G.S. 143B-168.12(a)(1) reads as rewritten:

- "(1) The North Carolina Partnership shall have a Board of Directors consisting of the following 25 members:
- a. The Secretary of Health and Human Services, ex officio, or the Secretary's designee;
  - b. Repealed by Session Laws 1997, c. 443, s. 11A.105.
  - c. The Superintendent of Public Instruction, ex officio, or the Superintendent's designee;
  - d. The President of the Community Colleges System, ex officio, or the President's designee;
  - e. Three members of the public, including one child care provider, one other who is a parent, and one other who is a board chair of a local partnership serving on the North Carolina Partnership local partnership advisory committee, appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate;



- f. Three members of the public, including one who is a parent, one other who is a representative of the faith community, and one other who is a board chair of a local partnership serving on the North Carolina Partnership local partnership advisory committee, appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives;
- g. Twelve members, appointed by the Governor. Three of these 12 members shall be members of the party other than the Governor's party, appointed by the Governor. Seven of these 12 members shall be appointed as follows: one who is a child care provider, one other who is a pediatrician, one other who is a health care provider, one other who is a parent, one other who is a member of the business community, one other who is a member representing a philanthropic agency, and one other who is an early childhood educator;
- h. Repealed by Session Laws 1998-212, s. 12.37B(a), effective October 30, 1998.
- h1. The Chair of the North Carolina Partnership Board shall be appointed by the Governor;
- i. Repealed by Session Laws 1998-212, s. 12.37B(a), effective October 30, 1998.
- j. One member of the public appointed by the General Assembly upon recommendation of the Majority Leader of the Senate;
- k. One member of the public appointed by the General Assembly upon recommendation of the Majority Leader of the House of Representatives;
- l. One member of the public appointed by the General Assembly upon recommendation of the Minority Leader of the Senate; and
- m. One member of the public appointed by the General Assembly upon recommendation of the Minority Leader of the House of Representatives.

All members appointed to succeed the initial members and members appointed thereafter shall be appointed for three-year terms. Members may succeed themselves.

All appointed board members shall avoid conflicts of interests and the appearance of impropriety. Should instances arise when a conflict may be perceived, any individual who may benefit directly or indirectly from the North Carolina Partnership's disbursement of funds shall abstain from participating in any decision or deliberations by the North Carolina Partnership regarding the disbursement of funds.

All ex officio members are voting members. Each ex officio member may be represented by a designee. These designees shall be voting members. No members of the General Assembly shall serve as members.

The North Carolina Partnership may establish a nominating committee and, in making their recommendations of members to be appointed by the General Assembly or by the Governor, the President

Pro Tempore of the Senate, the Speaker of the House of Representatives, the Majority Leader of the Senate, the Majority Leader of the House of Representatives, the Minority Leader of the Senate, the Minority Leader of the House of Representatives, and the Governor shall consult with and consider the recommendations of this nominating committee.

The North Carolina Partnership may establish a policy on members' attendance, which policy shall include provisions for reporting absences of at least three meetings immediately to the appropriate appointing authority.

Members who miss more than three consecutive meetings without excuse or members who vacate their membership shall be replaced by the appropriate appointing authority, and the replacing member shall serve either until the General Assembly and the Governor can appoint a successor or until the replaced member's term expires, whichever is earlier.

The North Carolina Partnership shall establish a policy on membership of the local board, ~~which policy shall include the requirement that all local board members, other than any member appointed because of a position held by that individual, be residents of the county or the partnership region they are representing boards.~~ No member of the General Assembly shall serve as a member of a local board. Within these requirements for local board membership, the North Carolina Partnership shall allow local partnerships that are regional to have flexibility in the composition of their boards so that all counties in the region have adequate representation.

All appointed local board members shall avoid conflicts of interests and the appearance of impropriety. Should instances arise when a conflict may be perceived, any individual who may benefit directly or indirectly from the partnership's disbursement of funds shall abstain from participating in any decision or deliberations by the partnership regarding the disbursement of funds."

**SECTION 10.38.(m)** G.S. 143B-168.12(a)(8) reads as rewritten:

"...

- (8) The North Carolina Partnership shall establish a local partnership advisory committee comprised of 15 members. Eight of the members shall be ~~chairs of~~ chosen from past board chairs or duly elected officers currently serving on local partnerships' board of ~~directors, and seven directors at the time of appointment and shall serve three-year terms.~~ Seven of the members shall be staff of local partnerships. Members shall be chosen by the Chair of the North Carolina Partnership from a pool of candidates nominated by their respective boards of directors. The local partnership advisory committee shall serve in an advisory capacity to the North Carolina Partnership and shall establish a schedule of regular meetings. Members shall be chosen from local partnerships on a rotating basis. The advisory committee shall annually elect a chair from among its members.

...."

**SECTION 10.38.(n)** G.S. 143B-168.12 is amended by adding a new subsection to read:

"(f) The North Carolina Partnership for Children, Inc., shall establish uniform guidelines and a reporting format for local partnerships to document the qualifying expenses occurring at the contractor level. Local partnerships shall monitor qualifying expenses to ensure they have occurred and meet the requirements prescribed in this subsection."

#### **EARLY CHILDHOOD EDUCATION AND DEVELOPMENT INITIATIVES EVALUATION**

**SECTION 10.39.** The Department of Health and Human Services, Division of Child Development, may evaluate the Early Childhood Education and Development Initiatives. The evaluation may include:

- (1) Evaluation of the Early Childhood Education and Development Initiatives, including the ongoing review of quality child care efforts and child care providers' progress in preparing children to be ready to enter school and succeed.
- (2) Continuation of technical assistance to local partnerships in data collection and evaluation.

#### **DEPARTMENT PLAN FOR FAMILY CHILD CARE HOME FEES**

**SECTION 10.39A.** The Department of Health and Human Services, Division of Child Development, shall develop a plan proposing fees for the licensing of family child care homes. The Department shall report on the plan to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division not later than April 1, 2004.

#### **MORE AT FOUR PROGRAM**

**SECTION 10.40.(a)** Of the funds appropriated to the Department of Health and Human Services, the sum of forty-three million one hundred twenty-one thousand eight hundred dollars (\$43,121,800) in the 2003-2004 fiscal year and the sum of forty-one million nine hundred twenty-one thousand eight hundred dollars (\$41,921,800) in the 2004-2005 fiscal year shall be used to implement "More At Four", a voluntary prekindergarten program for at-risk four-year-olds.

**SECTION 10.40.(b)** The Department of Health and Human Services and the Department of Public Instruction shall establish the "More At Four" Pre-K Task Force to oversee development and implementation of the pilot program. The membership shall include:

- (1) Parents of at-risk children.
- (2) Representatives with expertise in early childhood development.
- (3) Classroom teachers who are certified in early childhood education.
- (4) Representatives of the private not-for-profit and for-profit child care providers in North Carolina.
- (5) Employees of the Department of Health and Human Services who are knowledgeable in the areas of early childhood development, current State and federally funded efforts in child development, and providing child care.
- (6) Representatives of local Smart Start partnerships.

- (7) Representatives of local school administrative units.
- (8) Representatives of Head Start prekindergarten programs in North Carolina.
- (9) Employees of the Department of Public Instruction.

**SECTION 10.40.(c)** The Department of Health and Human Services and the Department of Public Instruction, with guidance from the Task Force, shall continue the implementation of the "More At Four" prekindergarten program for at-risk four-year-olds who are at risk of failure in kindergarten. The program is available statewide to all counties that choose to participate, including underserved areas. The goal of the program is to provide quality prekindergarten services to a greater number of at-risk children in order to enhance kindergarten readiness for these children. The program shall be consistent with standards and assessments established jointly by the Department of Health and Human Services, the Department of Public Instruction, and the Task Force and may consider the "More At Four" Pre-K Task Force recommendations. The program shall include:

- (1) A process and system for identifying children at risk of academic failure.
- (2) A process and system for identifying children who are not being served first priority in formal early education programs, such as child care, public or private preschools, Head Start, Early Head Start, early intervention programs, or other such programs, who demonstrate educational needs, and who are eligible to enter kindergarten the next school year, as well as children who are underserved.
- (3) A curriculum or several curricula that are recommended by the Task Force. The Task Force will identify and approve appropriate research-based curricula. These curricula shall: (i) focus primarily on oral language and emergent literacy; (ii) engage children through key experiences and provide background knowledge requisite for formal learning and successful reading in the early elementary years; (iii) involve active learning; (iv) promote measurable kindergarten language-readiness skills that focus on emergent literacy and mathematical skills; and (v) develop skills that will prepare children emotionally and socially for kindergarten.
- (4) An emphasis on ongoing family involvement with the prekindergarten program.
- (5) Evaluation of child progress through pre- and post-assessment of children in the statewide evaluation, as well as ongoing assessment of the children by teachers.
- (6) Guidelines for a system to reimburse local school boards and systems, private child care providers, and other entities willing to establish and provide prekindergarten programs to serve at-risk children.
- (7) A system built upon existing local school boards and systems, private child care providers, and other entities that demonstrate the ability to establish or expand prekindergarten capacity.
- (8) A quality-control system. Participating providers shall comply with standards and guidelines as established by the Department of Health and Human Services, the Department of Public Instruction, and the Task Force. The Department may use the child care rating system to assist in determining program participation.

- (9) Standards for minimum teacher qualifications. A portion of the classroom sites initially funded shall have at least one teacher who is certified or provisionally certified in birth to kindergarten education.
- (10) A local contribution. Programs must demonstrate that they are accessing resources other than "More At Four".
- (11) A system of accountability.
- (12) Collaboration with State agencies and other organizations. The Department of Health and Human Services, the Department of Public Instruction, and the Task Force shall collaborate with State agencies and other organizations such as the North Carolina Partnership for Children, Inc., in the design and implementation of the program.
- (13) Consideration of the reallocation of existing funds. In order to maximize current funding and resources, the Department of Health and Human Services, the Department of Public Instruction, and the Task Force shall consider the reallocation of existing funds from State and local programs that provide prekindergarten related care and services.
- (14) Recommendations for long-term organizational placement and administration of the program.

**SECTION 10.40.(d)** During the 2003-2004 fiscal year, the Department of Health and Human Services shall plan for expansion of the "More At Four" program within existing resources to include four and five star rated centers and schools serving four-year-olds and develop guidelines for these programs. The Department shall analyze guidelines for use of the "More At Four" funds, State subsidy funds, and Smart Start subsidy funds and devise a complementary plan for administration of funds for all four-year-old classrooms. The four and five star centers that choose to become a "More at Four" program shall, at a minimum, receive curricula and access to training and workshops for "More at Four" programs and be considered along with other "More at Four" programs for T.E.A.C.H. funding. The Department shall ensure that no individual receives funding from more than one source for the same purpose or activity during the same funding period. For purposes of this subsection, sources shall include T.E.A.C.H., W.A.G.E.\$., and T.E.A.C.H. Health Insurance programs for individual recipients.

The Department may use nonobligated "More At Four" funds for the 2003-2004 fiscal year to reduce the waiting list for subsidy, with priority given to four-year-olds attending three star or better centers. If there are funds remaining after the waiting list for four-year-olds has been satisfied, then the waiting list for other children may be addressed with the remaining funds.

**SECTION 10.40.(e)** The Department of Health and Human Services, the Department of Public Instruction, and the Task Force shall submit a progress report by January 1, 2004, and May 1, 2004, to the Joint Legislative Commission on Governmental Operations, the Joint Legislative Education Oversight Committee, the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division. This final report shall include the following:

- (1) The number of children participating in the program.
- (2) The number of children participating in the program who have never been served in other early education programs, such as child care, public or private preschool, Head Start, Early Head Start, or early intervention programs.

- (3) The expected expenditures for the programs and the source of the local match for each grantee.
- (4) The location of program sites and the corresponding number of children participating in the program at each site.
- (5) Activities involving Child Find in counties.
- (6) A comprehensive cost analysis of the program, including the cost per child served by the program.
- (7) The plan for expansion of "More At Four" through existing resources as outlined in this section.

## **SUBPART 6. OFFICE OF EDUCATIONAL SERVICES**

### **RESIDENTIAL SCHOOLS REPORTING**

**SECTION 10.41.** The Office of Education Services shall report not later than December 1, 2003, to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division on the activities of the Eastern North Carolina School for the Deaf at Wilson, the North Carolina School for the Deaf at Morganton, and the Governor Morehead School for the Blind. The report shall include enrollment numbers at the schools, the budgets, and the academic status of the schools as defined under the ABCs program.

## **SUBPART 7. DIVISION OF AGING**

### **SENIOR CENTER OUTREACH**

**SECTION 10.42.(a)** Funds appropriated to the Department of Health and Human Services, Division of Aging, for the 2003-2005 fiscal biennium, shall be used by the Division of Aging to enhance senior center programs as follows:

- (1) To expand the outreach capacity of senior centers to reach unserved or underserved areas; or
- (2) To provide start-up funds for new senior centers.

All of these funds shall be allocated by October 1 of each fiscal year.

**SECTION 10.42.(b)** Prior to funds being allocated pursuant to this section for start-up funds for a new senior center, the county commissioners of the county in which the new center will be located shall:

- (1) Formally endorse the need for such a center;
- (2) Formally agree on the sponsoring agency for the center; and
- (3) Make a formal commitment to use local funds to support the ongoing operation of the center.

**SECTION 10.42.(c)** State funding shall not exceed seventy-five percent (75%) of reimbursable costs.

## **SUBPART 8. DIVISION OF SOCIAL SERVICES**

### **ADULT CARE HOME MODEL FOR COMMUNITY-BASED SERVICES**

**SECTION 10.43.(a)** In keeping with the United States Supreme Court Decision in Olmstead vs. L.C. & E.W. and with State policy to provide appropriate services to clients in the least restrictive and most appropriate environment, the Department of Health and Human Services shall develop a model project for delivering

community-based mental health, developmental disabilities, and substance abuse housing and services through adult care homes that have excess capacity. The model shall be designed for implementation on a pilot basis and shall address the following:

- (1) Services that will be provided by the facility or under contract with the facility, including assistance with daily medication.
- (2) Access of clients to mental health, developmental disabilities, and substance abuse services provided in the community, including transportation to services outside of the client's residence in the adult care home facility.
- (3) Physical plant additions or changes necessary to provide for independent living of residents.
- (4) Methods for assuring quality of services, resident safety, and cost-effectiveness.
- (5) Consistency with the Department's Olmstead plan, other policies on community-integration, and disability plans adopted by the State.

**SECTION 10.43.(b)** The Department shall submit a final report on the development of the model to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division on or before March 1, 2004. The report shall address the following:

- (1) Proposed time and location for implementation of the pilot.
- (2) Proposed number of residents to be placed and services to be provided directly by the facility or under contract with the facility.
- (3) Method for evaluating the pilot, including services provided, on a regular basis.
- (4) A description of the living environment for each resident and a comparison of how the living environment compares to that of other residents in the adult care home.
- (5) Changes to State law necessary to implement the pilot.
- (6) Projected cost to the State for pilot and statewide implementation.

#### **CHILD SUPPORT PROGRAM/ENHANCED STANDARDS**

**SECTION 10.44.(a)** It is the intent of the General Assembly to increase the productivity and enhance the performance of child support enforcement offices statewide.

**SECTION 10.44.(b)** The Department of Health and Human Services shall develop and implement performance standards for each of the State and county child support enforcement offices across the State. To develop these performance standards, the Department of Health and Human Services shall evaluate other private and public child support models and national standards as well as other successful collections models. These performance standards shall include the following:

- (1) Cost per collections.
- (2) Consumer satisfaction.
- (3) Paternity establishments.
- (4) Administrative costs.
- (5) Orders established.
- (6) Collections on arrearages.
- (7) Location of absent parents.
- (8) Other related performance measures.

The Department of Health and Human Services shall monitor the performance of each office and shall implement a system of reporting that allows each local office to review its performance as well as the performance of other local offices. The Department of Health and Human Services shall publish an annual performance report that shall include the statewide and local office performance of each child support office.

**SECTION 10.44.(c)** The Department of Health and Human Services shall report on its progress, in compliance with this section, to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division by May 1, 2005.

#### **SPECIAL NEEDS ADOPTIONS INCENTIVE FUND**

**SECTION 10.45.** Part 4 of Article 2 of Chapter 108A of the General Statutes is amended by adding a new section to read:

**"§ 108A-50A. Special Needs Adoptions Incentive Fund.**

(a) There is created a Special Needs Adoptions Incentive Fund to provide financial assistance to facilitate the adoption of certain children residing in licensed foster care homes. These funds shall be used to remove financial barriers to the adoption of these children and shall be available to foster care families who adopt children with special needs, as defined by the Social Services Commission. These funds shall be matched by county funds.

(b) This program shall not constitute an entitlement and is subject to the availability of funds.

(c) The Social Services Commission shall adopt rules to implement the provisions of this section."

#### **FOSTER CARE AND ADOPTION ASSISTANCE PAYMENTS**

**SECTION 10.46.(a)** The maximum rates for State participation in the foster care assistance program are established on a graduated scale as follows:

- (1) \$365.00 per child per month for children aged birth through 5;
- (2) \$415.00 per child per month for children aged 6 through 12; and
- (3) \$465.00 per child per month for children aged 13 through 18.

Of these amounts, fifteen dollars (\$15.00) is a special needs allowance for the child.

**SECTION 10.46.(b)** The maximum rates for State participation in the adoption assistance program are established on a graduated scale as follows:

- (1) \$365.00 per child per month for children aged birth through 5;
- (2) \$415.00 per child per month for children aged 6 through 12; and
- (3) \$465.00 per child per month for children aged 13 through 18.

**SECTION 10.46.(c)** In addition to providing board payments to foster and adoptive families of HIV-infected children, as prescribed in Section 23.28 of Chapter 324 of the 1995 Session Laws, any additional funds remaining that were appropriated for this purpose shall be used to provide medical training in avoiding HIV transmission in the home.

**SECTION 10.46.(d)** The maximum rates for the State participation in HIV foster care and adoption assistance are established on a graduated scale as follows:



- (1) \$800.00 per child per month with indeterminate HIV status;
- (2) \$1,000 per child per month confirmed HIV-infected, asymptomatic;
- (3) \$1,200 per child per month confirmed HIV-infected, symptomatic; and
- (4) \$1,600 per child per month terminally ill with complex care needs.

#### **SPECIAL CHILDREN ADOPTION FUND**

**SECTION 10.47.(a)** Of the funds appropriated to the Department of Health and Human Services in this act, the sum of one million one hundred thousand dollars (\$1,100,000) shall be used to support the Special Children Adoption Fund for each year of the 2003-2005 fiscal biennium. The Division of Social Services, in consultation with the North Carolina Association of County Directors of Social Services and representatives of licensed private adoption agencies, shall develop guidelines for the awarding of funds to licensed public and private adoption agencies upon the adoption of children described in G.S. 108A-50 and in foster care. Payments received from the Special Children Adoption Fund by participating agencies shall be used exclusively to enhance the adoption services. No local match shall be required as a condition for receipt of these funds. In accordance with State rules for allowable costs, the Special Children Adoption Fund may be used for post-adoption services for families whose income exceed two hundred percent (200%) of the federal poverty level.

**SECTION 10.47.(b)** Of the total funds appropriated for the Special Children Adoption Fund each year, twenty percent (20%) of the total funds available shall be reserved for payment to participating private adoption agencies. If the funds reserved in this subsection for payments to private agencies have not been spent on or before March 31, 2004, the Division of Social Services may reallocate those funds, in accordance with this section, to other participating adoption agencies.

#### **INTENSIVE FAMILY PRESERVATION SERVICES FUNDING AND PERFORMANCE ENHANCEMENTS**

**SECTION 10.48.(a)** The Department of Health and Human Services shall review the Intensive Family Preservation Services Program (IFPS) to enhance and implement initiatives that focus on increasing the sustainability and effectiveness of the Program.

**SECTION 10.48.(b)** Notwithstanding the provisions of G.S. 143B-150.6, the Program shall provide intensive services to children and families in cases of abuse, neglect, and dependency where a child is at imminent risk of removal from the home and to children and families in cases of abuse where a child is not at imminent risk of removal. The Program shall be developed and implemented statewide on a regional basis. The revised IFPS shall ensure the application of standardized assessment criteria for determining imminent risk and clear criteria for determining out-of-home placement.

**SECTION 10.48.(c)** The Department of Health and Human Services shall require that any program or entity that receives State, federal, or other funding for the purpose of Intensive Family Preservation Services shall provide information and data that allows for:

- (1) An established follow-up system with a minimum of six months of follow-up services.
- (2) Detailed information on the specific interventions applied including utilization indicators and performance measurement.

- (3) Cost-benefit data.
- (4) Data on long-term benefits associated with Intensive Family Preservation Services. This data shall be obtained by tracking families through the intervention process.
- (5) The number of families remaining intact and the associated interventions while in IFPS and 12 months thereafter.
- (6) The number and percentage by race of children who received Intensive Family Preservation Services compared to the ratio of their distribution in the general population involved with Child Protective Services.

**SECTION 10.48.(d)** The Department shall establish performance-based funding protocol and shall only provide funding to those programs and entities providing the required information specified in subsection (c) of this section. The amount of funding shall be based on the individual performance of each program.

**SECTION 10.48.(e)** The Department of Health and Human Services shall report to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division not later than April 1, 2004. The report shall include information and data collected pursuant to subsection (c) of this section.

#### **TANF STATE PLAN**

**SECTION 10.49.(a)** The General Assembly approves the plan titled "North Carolina Temporary Assistance for Needy Families State Plan FY 2003-2005", prepared by the Department of Health and Human Services and presented to the General Assembly on April 28, 2003, as revised in accordance with subsection (b) of this section. The North Carolina Temporary Assistance for Needy Families State Plan covers the period October 1, 2003, through September 30, 2005. The Department shall submit the State Plan, as revised in accordance with subsection (b) of this section, to the United States Department of Health and Human Services as amended by this act or any other act of the 2003 General Assembly.

**SECTION 10.49.(b)** The Department of Health and Human Services shall revise the North Carolina Temporary Assistance for Needy Families State Plan FY 2003-2005, submitted to the General Assembly for approval on April 28, 2003. The revisions shall be made to the following Plan components:

- (1) Enhanced Employee Assistance Program to reflect changes in funding.
- (2) Services for Families to remove reference to start-up activities.
- (3) Work Responsibility to remove reference to start-up activities.
- (4) Cabarrus County Waiver to reflect changes in the law made by the 2003 General Assembly.
- (5) Goal number eight to provide that caseload reduction goals are subject to economic conditions in the county.

**SECTION 10.49.(c)** The counties approved as Electing Counties in North Carolina's Temporary Assistance for Needy Families State Plan FY 2003-2005 as approved by this section are: Beaufort, Caldwell, Iredell, Lenoir, Lincoln, Macon, McDowell, Sampson, and Wilkes.

**SECTION 10.49.(d)** Counties designated as Electing Counties pursuant to G.S. 108A-27(d) and who submitted the letter of intent to be redesignated as a standard county and the accompanying county plan for fiscal years 2003 through 2005, pursuant to G.S. 108A-27(e), shall operate under the standard county budget requirements

effective July 1, 2003. Counties that submitted the letter of intent to remain as an Electing County or to be redesignated as an Electing County and the accompanying county plan for fiscal years 2003 through 2005, pursuant to G.S. 108A-27(e), shall operate under the Electing County budget requirements effective July 1, 2003. For programmatic purposes, all counties referred to in this subsection shall remain under their current county designation through September 30, 2003.

#### **ELECTING COUNTY TANF FUNDS REVERT**

**SECTION 10.50.** G.S. 108A-27.11(c) reads as rewritten:

"(c) Each Electing County's allocation for Work First Family Assistance shall be computed based on the percentage of each Electing County's total expenditures for cash assistance to statewide actual expenditures for cash assistance in 1995-96. The resulting percentage shall be applied to the federal TANF block grant funds appropriated for cash assistance by the General Assembly each fiscal year. The Department shall transmit the federal funds contained in the county block grants to Electing Counties as soon as practicable after they become available to the State and in accordance with federal cash management laws and regulations. ~~The Department shall transmit one-fourth of the State funds contained in county block grants to Electing Counties at the beginning of each quarter.~~"

#### **SPECIAL ASSISTANCE IN-HOME PROGRAM**

**SECTION 10.51.(a)** The Department of Health and Human Services may use funds from the existing State-County Special Assistance for Adults budget to provide Special Assistance payments to eligible individuals in in-home living arrangements. These payments may be made for up to 800 individuals during the 2003-2004 fiscal year and the 2004-2005 fiscal year. The standard monthly payment to individuals enrolled in the Special Assistance in-home program shall be fifty percent (50%) of the monthly payment the individual would receive if the individual resided in an adult care home and qualified for Special Assistance, except if a lesser payment amount is appropriate for the individual as determined by the local case manager. For State fiscal year 2003-2004, qualified individuals shall not receive payments at rates less than they would have been eligible to receive in State fiscal year 2002-2003. The Department shall implement Special Assistance in-home eligibility policies and procedures to assure that in-home program participants are those individuals who need and, but for the in-home program, would seek placement in an adult care home facility. The Department's policies and procedures shall include the use of a functional assessment. The Department shall make this in-home option available to all counties on a voluntary basis. To the maximum extent possible, the Department shall consider geographic balance in the dispersion of payments to individuals across the State.

**SECTION 10.51.(b)** The Department shall report on or before January 1, 2004, and on or before January 1, 2005, to the cochairs of the House of Representatives Appropriations Committee, the House of Representatives Appropriations Subcommittee on Health and Human Services, the cochairs of the Senate Appropriations Committee, and the cochairs of the Senate Appropriations Committee on Health and Human Services. This report shall include the following information:

- (1) A description of cost savings that result from allowing individuals eligible for State-County Special Assistance the option of remaining in the home.

- (2) A complete fiscal analysis of the in-home option to include all federal, State, and local funds expended.
- (3) How much case management is needed and which types of individuals are most in need of case management.
- (4) The geographic location of individuals receiving payments under this section.
- (5) A description of the services purchased with these payments.
- (6) A description of the income levels of individuals who receive payments under this section and the impact on the Medicaid program.
- (7) Findings and recommendations as to the feasibility of continuing or expanding the in-home program.
- (8) The level and quantity of services (including personal care services) provided to the demonstration project participants compared to the level and quantity of services for residents in adult care homes.

**SECTION 10.51.(c)** The Department shall incorporate data collection tools designed to compare quality of life among institutionalized versus noninstitutionalized populations (i.e., an individual's perception of his or her own health and well-being, years of healthy life, and activity limitations). To the extent national standards are available, the Department shall utilize those standards.

#### **STATE/COUNTY SPECIAL ASSISTANCE**

**SECTION 10.52.(a)** The eligibility of Special Assistance recipients residing in adult care homes on August 1, 1995, shall not be affected by an income reduction in the Special Assistance eligibility criteria resulting from adoption of the Rate Setting Methodology Report and Related Services, providing these recipients are otherwise eligible. The maximum monthly rate for these residents in adult care home facilities shall be one thousand two hundred thirty-one dollars (\$1,231) per month per resident.

**SECTION 10.52.(b)** The maximum monthly rate for residents in adult care home facilities shall be one thousand ninety-one dollars (\$1,091) per month per resident through September 30, 2003.

**SECTION 10.52.(c)** Effective October 1, 2003, the maximum monthly rate for residents in adult care home facilities shall be one thousand sixty-six dollars (\$1,066) per month per resident unless adjusted by the Department in accordance with subsection (f) of this section.

**SECTION 10.52.(d)** It is the intent of the General Assembly to protect individuals who meet current eligibility standards for State/County Special Assistance from becoming disenfranchised from the program as a result of any changes proposed in this section. Therefore, subject to any necessary approvals by the Center for Medicare & Medicaid Services (CMS):

- (1) The eligibility of Special Assistance recipients who reside in adult care homes on September 30, 2003, and remain continuously eligible shall not be affected by an income reduction in the Special Assistance eligibility criteria, providing these recipients are otherwise eligible. The maximum monthly rate for these residents in adult care home facilities shall be one thousand ninety-one dollars (\$1,091) per month per resident; and

- (2) The standard of need level for coverage eligibility under State/County Special Assistance, for individuals not enrolled or recipients of the program on September 30, 2003, shall be not less than one thousand ninety-one dollars (\$1,091) per month per individual, but the monthly reimbursement rate for such individuals shall be the amount established under subsections (c) and (f) of this section. However, the Department of Health and Human Services, in its determination of reimbursement rates, may establish a minimum monthly reimbursement rate of not more than five dollars (\$5.00) per month for any resident of an adult care home facility meeting the established standard of need level for coverage.

**SECTION 10.52.(e)** The sum of three million one hundred eighty-nine thousand six hundred seventy-five dollars (\$3,189,675) for the 2003-2004 fiscal year and the sum of four million four hundred thirty-one thousand eight hundred forty-six dollars (\$4,431,846) for the 2004-2005 fiscal year appropriated to the Department of Health and Human Services shall be transferred from the Division of Social Services to the Division of Medical Assistance and used as State match to draw down federal matching funds to help pay for Medicaid's personal care services for adult care homes (ACH-PCS) rather than the State/County Special Assistance Program.

**SECTION 10.52.(f)** Notwithstanding any other provision of this section, the Department of Health and Human Services shall review activities and costs related to the provision of care in adult care homes and shall determine what costs may be considered to properly maximize allowable reimbursement available through Medicaid personal care services for adult care homes (ACH-PCS) under federal law. As determined, and with any necessary approval from the Centers for Medicare and Medicaid Services (CMS), and the approval of the Office of State Budget and Management, the Department may transfer necessary funds from the State/County Special Assistance program within the Division of Social Services to the Division of Medical Assistance and may use those funds as State match to draw down federal matching funds to pay for such activities and costs under Medicaid's personal care services for adult care homes (ACH-PCS), thus maximizing available federal funds. The established rate for State/County Special Assistance set forth in subsection (c) of this section shall be adjusted by the Department to reflect any transfer of funds from the Division of Social Services to the Division of Medical Assistance, and related transfer costs and responsibilities from State/County Special Assistance to the Medicaid personal care services for adult care homes (ACH-PCS). Such rate adjustments to the Special Assistance rate shall be effective with the effective date of increased reimbursement under ACH-PCS. In no event shall the reimbursement for services through the ACH-PCS exceed the average cost of such services as determined by the Department from review of cost reports as required and submitted by adult care homes. The Department shall report any transfers of funds and modifications of rates to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division.

#### **STATE/COUNTY SPECIAL ASSISTANCE TRANSFER OF ASSETS**

**SECTION 10.53.(a)** G.S. 108A-46 is repealed.

**SECTION 10.53.(b)** Part 3 of Article 2 of Chapter 108A is amended by adding the following new section to read:

**"§ 108A-46A. Transfer of assets for purposes of qualifying for State-county Special Assistance for adults.**

Notwithstanding any other provision of law to the contrary, Supplemental Security Income (SSI) policy applicable to transfer of assets and estate recovery, as prescribed by federal law, shall apply to applicants for State-county Special Assistance."

**SECTION 10.53.(c)** The Department of Health and Human Services shall continue to review whether policy for State-county Special Assistance should be changed to permit an assisted living facility to accept from a family member of a resident who qualifies for State-county Special Assistance payment for the difference in the monthly rate for room, board, and services available. In reviewing current policy, the Department shall consider the following conditions on family contributions to the resident's cost of care:

- (1) Ensuring that the resident meets all income and resource eligibility requirements for State-county Special Assistance.
- (2) Not counting payments made by family members to the facility as income to the resident or as an in-kind contribution when calculating the monthly rate applicable to the resident.
- (3) Ensuring that supplemental payments are made on a voluntary basis as specified in the resident agreement.

Not later than March 1, 2004, the Department shall report on its activities under this subsection to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division.

**LIMITATION ON STATE ABORTION FUND**

**SECTION 10.54.** The limitations on funding of the performance of abortion established in Section 23.27 of Chapter 324 of the 1995 Session Laws, as amended by Section 23.8A of Chapter 507 of the 1995 Session Laws, apply to the 2003-2004 and 2004-2005 fiscal years.

**FUNDS FOR FOOD BANKS**

**SECTION 10.55.(a)** Of the funds appropriated to the Department of Health and Human Services in this act, the sum of one million dollars (\$1,000,000) for the 2003-2004 fiscal year shall be allocated equally among the six Second Harvest North Carolina food banks.

**SECTION 10.55.(b)** Each organization shall report to the Department of Health and Human Services and the Fiscal Research Division on the activities performed and the impact on local communities directly associated with the funds allocated in subsection (a) of this section by April 1, 2004. Each organization shall provide to the Department of Health and Human Services and the Fiscal Research Division a copy of its annual audited financial statement within 30 days of issuance of the statement.

**CHILD WELFARE SYSTEM PILOTS SYSTEM**

**SECTION 10.56.(a)** The Department of Health and Human Services, Division of Social Services, shall continue working with local departments of social services to implement an alternative response system of child protection in no fewer

than 10 and no more than 33 demonstration areas in this State. The Division of Social Services may exceed the maximum number of demonstration areas if a county specifically requests inclusion and the Division determines that resources are available. The demonstration projects in place in the 2003-2004 fiscal year shall continue. The alternative response system shall provide for a family-centered approach to child protective services which local departments of social services utilize family assessment tools and family support principles when responding to selected reports of suspected child neglect and dependency.

**SECTION 10.56.(b)** The Department of Health and Human Services shall evaluate the original pilot demonstration areas to determine the impact the alternative response system to child protective services has had in the following areas:

- (1) Child safety.
- (2) Timeliness of response.
- (3) Timeliness of service.
- (4) Coordination of local human services.

**SECTION 10.56.(c)** The Department of Health and Human Services shall proceed to expand this demonstration project if non-State funds are identified for this purpose.

**SECTION 10.56.(d)** The Department of Health and Human Services shall report on the outcome of the evaluation of the original pilot demonstration areas pursuant to subsection (b) of this section and the expansion of the demonstration areas. The Department shall make recommendations for statewide implementation of an alternative response system to child protective services. The report shall include any statutory changes required for full implementation. Any recommendations for statutory changes contained in the report shall be eligible for consideration by the 2003 General Assembly in the 2004 Regular Session. The report shall be submitted to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division not later than April 1, 2004.

## **ELIMINATE REPORTING REQUIREMENTS FOR WORK FIRST PROGRAM**

**SECTION 10.57.** G.S. 108A-27.2 reads as rewritten:

### **"§ 108A-27.2. General duties of the Department.**

The Department shall have the following general duties with respect to the Work First Program:

- (1) Ensure that the specifications of the general provisions of the State Plan regarding the procedures required when recipients are sanctioned, prescribed in G.S. 108A-27.9(c), are uniformly developed and implemented across the State;
  - (1a) Provide technical assistance to counties developing and implementing their County Plans, including providing information concerning applicable federal law and regulations and changes to federal law and regulations that affect the permissible use of federal funds and scope of the Work First Program in a county;
  - (1b) Reserved for future codification purposes.
  - (1c) Ensure that two-parent families receive cash assistance for three months after qualifying for assistance without being subject to pay for performance requirements, in order to encourage families to stay together and to overcome barriers to self-sufficiency and gainful

- employment. Cash assistance or diversion assistance received prior to being subject to pay for performance requirements is limited to one time within a 12-month period.
- (2) Describe authorized federal and State work activities. For up to twenty percent (20%) of Work First recipients, authorized State work activities shall include at least part-time enrollment in a postsecondary education program. In Standard Counties, recipients enrolled on at least a part-time basis in a postsecondary education program and maintaining a 2.5 grade point average or its equivalent shall have their two-year time limit suspended for up to three years.
  - (3) Define requirements for assignment of child support income and compliance with child support activities;
  - (4) Establish a schedule for counties to submit their County Plans to ensure that all Standard County Plans are adopted by the Standard Program Counties by January 15 of each odd-numbered year and all Electing County Plans are adopted by Electing Counties by February 1 of each odd-numbered year and review and then recommend a State Plan to the General Assembly;
  - (5) Ensure that the County Plans comply with federal and State laws, rules, and regulations, are consistent with the overall purposes and goals of the Work First Program, and maximize federal receipts for the Work First Program;
  - (6) Prepare the State Plan in accordance with G.S. 108A-27.9 and federal laws and regulations and submit it to the Budget Director for approval;
  - (7) Submit the State Plan, as approved by the Budget Director, to the General Assembly for approval;
  - (8) ~~Report monthly to the Senate Appropriations Committee on Health and Human Services and the House of Representatives Appropriations Subcommittee on Health and Human Services on the monthly progress reports submitted by the counties to the Department;~~
  - (9) Develop and implement a system to monitor and evaluate the impact of the Work First Program on children and families, including the impact of the Work First Program on job retention and advancement, child abuse and neglect, caseloads for child protective services and foster care, school attendance, academic and behavioral performance, and other measures of the economic security and health of children and families. The system should be developed to allow monitoring and evaluation of impact based on both aggregated and disaggregated data. State and county agencies shall cooperate in providing information needed to conduct these evaluations, sharing data and information except where prohibited specifically by federal law or regulation;
  - (10) Monitor the performance of counties relative to their County Plans and the overall goals of the Work First Program and ~~report every six months to the Director of the Budget and the Senate Appropriations Committee on Health and Human Services and the House of Representatives Appropriations Subcommittee on Health and Human Services and annually to the General Assembly on the counties' attainment of the outcomes and goals;~~Program;



- (11) ~~Provide quarterly progress reports to the county departments of social services, the county boards of commissioners, and the Senate Appropriations Committee on Health and Human Services and the House of Representatives Appropriations Subcommittee on Health and Human Services on the performance of counties in achieving Work First Program expectations;~~
- (12) Report to the Senate Appropriations Committee on Health and Human Services and the House of Representatives Appropriations Subcommittee on Health and Human Services the counties which have requested Electing status; provide copies of the proposed Electing County Plans to ~~{C}ommission and the members of the Senate Appropriations Committee on Health and Human Services and the House of Representatives Appropriations Subcommittee on Health and Human Services~~ Services, if requested; and make recommendations to the Senate Appropriations Committee on Health and Human Services and the House of Representatives Appropriations Subcommittee on Health and Human Services on which of the proposed Electing County Plans ensure compliance with federal and State laws, rules, and regulations and are consistent with the overall purposes and goals for the Work First Program; and
- (13) Make recommendations to the General Assembly for approval of counties to become Electing Counties which represent, in aggregate, no more than fifteen and one-half percent (15.5%) of the total Work First caseload at September 1 of each year and, for each county submitting a plan, the reasons individual counties were or were not recommended.
- (14) Review the county Work First Program of each electing county and recommend whether the county should continue to be designated an electing county or whether it should be redesignated as a standard county. In conducting its review and making its recommendation, the Department shall:
  - a. Examine and consider the results of the Department's monitoring and evaluation of the impact of the electing county's Work First Program as required under subdivision (9) of this section;
  - b. Determine whether the electing county's Work First Program's unique design requires implementation by an electing county or whether the Work First Program could be implemented by a county designated as a standard county;
  - c. Determine whether the electing county's Work First Program and policies are unique and innovative in meeting the purpose of the Work First Program as stated under G.S. 108A-27, and State and federal laws, rules, and regulations, as compared to other standard and electing county Work First programs.The Department shall make its recommendation and the reasons therefor to the Senate Appropriations Committee on Health and

Human Services and the House of Representatives Appropriations Subcommittee on Health and Human Services not later than three months prior to submitting the State Plan to the Commission for review as required under G.S. 108A-27.9(a)."

**SOCIAL SERVICES COMMISSION RULES ON RATE-SETTING FOR ADULT DAY CENTERS AND ADULT DAY HEALTH CENTERS**

**SECTION 10.58.** The Social Services Commission shall consider adopting rules increasing the rates for adult day centers and adult day health centers. Any rate increase adopted by the Social Services Commission for adult day centers and adult day health centers shall be implemented within existing funds.

**PART X-A. DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

**STUDY COMMERCIAL PRODUCTION OF TURTLES**

**SECTION 10A.1.** The Department of Agriculture and Consumer Services, with the cooperation and assistance of the Agricultural Research Service at North Carolina State University, shall investigate the potential for the production of turtles for food purposes and other commercial purposes that could support turtle production as an alternative agricultural product in North Carolina. No later than April 1, 2004, the Department of Agriculture and Consumer Services shall report its findings and recommendations, including any legislative proposals, to the Appropriations Subcommittees on Natural and Economic Resources in both the Senate and the House of Representatives and to the Chairs of the Senate Committee on Agriculture, Environment, and Natural Resources and the House of Representatives Agriculture Committee.

**PART XI. DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES**

**GRASSROOTS SCIENCE PROGRAM**

**SECTION 11.1.(a)**Of the funds appropriated in this act to the Department of Environment and Natural Resources for the Grassroots Science Program, the sum of two million five hundred fifty-one thousand seven hundred sixty dollars (\$2,551,760) for fiscal year 2003-2004 and the sum of two million five hundred fifty-one thousand seven hundred sixty dollars (\$2,551,760) for fiscal year 2004-2005 are allocated as grants-in-aid for each fiscal year as follows:

	2003-2004	2004-2005
Aurora Fossil Museum	\$56,690	\$56,690
Cape Fear Museum	\$185,470	\$185,470
Catawba Science Center	\$134,913	\$134,913
Colburn Gem and Mineral Museum, Inc.	\$66,858	\$66,858
Discovery Place	\$624,407	\$624,407
Granville County Museum Commission, Inc. - Harris Gallery	\$55,885	\$55,885

The Health Adventure Museum of Pack Place Education, Arts and Science Center, Inc.	\$121,115	\$121,115
Imagination Station	\$85,308	\$85,308
Iredell County Children's Museum	\$6,616	\$6,616
Museum of Coastal Carolina	\$69,311	\$69,311
Natural Science Center of Greensboro	\$183,416	\$183,416
North Carolina Museum of Life and Science	\$388,283	\$388,283
Rocky Mount Children's Museum	\$72,810	\$72,810
Schiele Museum of Natural History	\$234,524	\$234,524
Sci Works Science Center and Environmental Park of Forsyth County	\$147,578	\$147,578
Western North Carolina Nature Center	\$118,578	\$118,578
 Total	 \$2,551,760	 \$2,551,760

**SECTION 11.1.(b)** Of the funds appropriated in this act to the Department of Environment and Natural Resources for the Grassroots Science Program, the sum of two hundred fifty thousand dollars (\$250,000) for the 2003-2004 fiscal year is allocated as initial grants-in-aid of fifty thousand dollars (\$50,000) to each of the following unfunded members of the Grassroots collaborative:

- (1) Wilmington Children's Museum, Inc.
- (2) Carolina Raptor Center, Inc.
- (3) Highlands Nature Center
- (4) Fascinate-U Children's Museum
- (5) KidSenses, Inc.

**SECTION 11.1.(c)** It is the intent of the General Assembly that the museums receiving initial allocations under subsection (b) of this section shall receive recurring allocations in subsequent fiscal years based on the formula used to calculate the allocations under subsection (a) of this section.

#### **STATEWIDE BEAVER DAMAGE CONTROL PROGRAM FUND**

**SECTION 11.2.** Of the funds appropriated to the Wildlife Resources Fund in this act, the sum of four hundred forty-nine thousand dollars (\$449,000) for the 2003-2004 fiscal year and the sum of four hundred forty-nine thousand dollars (\$449,000) for the 2004-2005 fiscal year shall be used to provide the State share necessary to support the beaver damage control program established in G.S. 113-291.10, provided the sum of at least twenty-five thousand dollars (\$25,000) in federal funds is available each fiscal year of the biennium to provide the federal share.

#### **FUNDS FOR CLEANUP OF WARREN COUNTY PCB LANDFILL**

**SECTION 11.3.(a)** Notwithstanding the provisions of G.S. 143-215.3A, the Department of Environment and Natural Resources may use up to five hundred thousand dollars (\$500,000) for the 2003-2004 fiscal year from the fees collected for water quality permits under G.S. 143-215.3D and credited to the Water Permits Fund if both of the following conditions are satisfied:

- (1) The detoxification and remediation of the landfill located in Warren County cannot be completed without these additional funds.

- (2) All other funds, including all contingency funds, available to the Department for the detoxification and remediation of the landfill located in Warren County that contains polychlorinated biphenyl (PCBs) and dioxin/furan contaminated materials have been spent or encumbered.

**SECTION 11.3.(b)** It is the intent of the General Assembly that the funds authorized under subsection (a) of this section will be sufficient to complete the detoxification and remediation of this landfill, based on representations made to the General Assembly.

### **COMMERCIAL AND NONCOMMERCIAL UNDERGROUND STORAGE TANK FUNDS**

**SECTION 11.4.(a)** Section 19 of S.L. 1989-652, Section 67 of S.L. 1991-1044, Section 15(a) and Section 15(b) of S.L. 1995-377, and Section 1 of S.L. 2001-454 are repealed, which has the effect of repealing two million six hundred twenty-five thousand dollars (\$2,625,000) in appropriations from the Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund to the Department of Environment and Natural Resources and one million two hundred ninety-five thousand dollars (\$1,295,000) in appropriations from the Noncommercial Leaking Petroleum Underground Storage Tank Cleanup Fund to the Department of Environment and Natural Resources.

**SECTION 11.4.(b)** There is appropriated from the Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund to the Department of Environment and Natural Resources the sum of two million six hundred twenty-five thousand dollars (\$2,625,000) for the 2003-2004 fiscal year and the sum of two million six hundred twenty-five thousand dollars (\$2,625,000) for the 2004-2005 fiscal year to administer the underground storage tank program under Parts 2A and 2B of Article 21A of Chapter 143 of the General Statutes.

**SECTION 11.4.(c)** It is the intent of the General Assembly that the funds under subsection (b) of this section are recurring funds.

**SECTION 11.4.(d)** There is appropriated from the Noncommercial Leaking Petroleum Underground Storage Tank Cleanup Fund to the Department of Environment and Natural Resources the sum of one million two hundred ninety-five thousand dollars (\$1,295,000) for the 2003-2004 fiscal year and the sum of one million two hundred ninety-five thousand dollars (\$1,295,000) for the 2004-2005 fiscal year to administer the underground storage tank program under Parts 2A and 2B of Article 21A of Chapter 143 of the General Statutes.

**SECTION 11.4.(e)** It is the intent of the General Assembly that the funds under subsection (c) of this section are recurring funds.

**SECTION 11.4.(f)** The Office of State Budget and Management shall certify the appropriations under subsections (b) and subsection (d) of this section in the budget codes for the Commercial and Noncommercial Leaking Petroleum Underground Storage Tank Cleanup Funds and in the General Fund budget code for the Department of Environment and Natural Resources.

### **EXPRESS REVIEW PILOT PROGRAM**

**SECTION 11.4A.(a)** The Department of Environment and Natural Resources may develop the Express Review Pilot Program, a pilot program to provide express permit and certification reviews. Participation in the Express Review Pilot

Program is voluntary, and the program is to become supported by the fees determined pursuant to subsection (b) of this section. The Department of Environment and Natural Resources shall determine the project applications to review under the Express Review Pilot Program from those who request to participate in the Pilot Program. The Express Review Pilot Program may be applied to any one or all of the permits, approvals, or certifications in the following programs: the erosion and sedimentation control program, the coastal management program, and the water quality programs, including water quality certifications and stormwater management. The Express Review Pilot Program shall focus on the following permits or certifications:

- (1) Stormwater permits under Part 1 of Article 21 of Chapter 143 of the General Statutes.
- (2) Stream origination certifications under Article 21 of Chapter 143 of the General Statutes.
- (3) Water quality certification under Article 21 of Chapter 143 of the General Statutes.
- (4) Erosion and sedimentation control permits under Article 4 of Chapter 113A of the General Statutes.
- (5) Permits under the Coastal Area Management Act (CAMA), Part 4 of Article 7 of Chapter 113A of the General Statutes.

**SECTION 11.4A.(b)** The Department of Environment and Natural Resources may establish up to eight positions to administer the Express Review Pilot Program and may determine the fees for express application review under the Pilot Program. Notwithstanding G.S. 143-215.3D, the maximum permit application fee to be charged under subsection (a) of this section for the express review of a project application requiring all of the permits under subdivisions (1) through (5) of subsection (a) of this section shall not exceed five thousand five hundred dollars (\$5,500). Notwithstanding G.S. 143-215.3D, the maximum permit application fee to be charged for the express review of a project application requiring all of the permits under subdivisions (1) through (4) of subsection (a) of this section shall not exceed four thousand five hundred dollars (\$4,500). Notwithstanding G.S. 143-215.3D, the maximum permit application fee charged for the express review of a project application for any other combination of permits under subdivisions (1) through (5) of subsection (a) of this section shall not exceed four thousand dollars (\$4,000). Express review of a project application involving additional permits or certifications issued by the Department of Environment and Natural Resources other than those under subdivisions (1) through (5) of subsection (a) of this section may be allowed by the Department, and, notwithstanding G.S. 143-215.3D or any other statute or rule that sets a permit fee, the maximum permit application fee charged for the express review of a project application shall not exceed four thousand dollars (\$4,000), plus one hundred fifty percent (150%) of the fee that would otherwise apply by statute or rule for that particular permit or certification. Additional fees, not to exceed fifty percent (50%) of the original permit application fee under this section, may be charged for subsequent reviews due to the insufficiency of the permit applications. The Department of Environment and Natural Resources may establish the procedure by which the amount of the fees under this subsection is determined, and the fees and procedures are not rules under G.S. 150B-2(8a) for the Express Review Pilot Program under this section.

**SECTION 11.4A.(c)** The funds appropriated to the Department of Environment and Natural Resources in this act for the 2003-2004 fiscal year shall be used for the costs of implementing the Express Review Pilot Program under this section during the 2003-2004 fiscal year.

**SECTION 11.4A.(d)** The Express Review Fund is created as a special nonreverting fund. The Express Review Fund shall be used for the costs of implementing the Express Review Pilot Program under this section. All fees collected under this section shall be credited to the Express Review Fund. If the Express Review Pilot Program is abolished, the funds in the Express Review Fund shall be credited to the General Fund.

**SECTION 11.4A.(e)** No later than May 1, 2004, the Department of Environment and Natural Resources shall report to the General Assembly its findings on the success of the Express Review Pilot Program and whether it recommends that the Pilot Program be continued or expanded.

#### **COST SHARE FUNDS FOR LIMITED RESOURCE/NEW FARMERS**

**SECTION 11.6.** G.S. 143-215.74(b) reads as rewritten:

- "(b) The program shall be subject to the following requirements and limitations:
- (1) The purpose of the program shall be to reduce the input of agricultural nonpoint source pollution into the water courses of the State.
  - (2) The program shall initially include the present 16 nutrient sensitive watershed counties and 17 additional counties.
  - (3) Subject to subdivision (7) of this subsection, priority designations for inclusions in the program shall be under the authority of the Soil and Water Conservation Commission. The Soil and Water Conservation Commission shall retain the authority to allocate the cost share funds.
  - (4) Areas shall be included in the program as the funds are appropriated and the technical assistance becomes available from the local Soil and Water Conservation District.
  - (5) Funding may be provided to assist practices including conservation tillage, diversions, filter strips, field borders, critical area plantings, sedimentation control structures, sod-based rotations, grassed waterways, strip-cropping, terraces, cropland conversion to permanent vegetation, grade control structures, water control structures, closure of lagoons, emergency spillways, riparian buffers or equivalent controls, odor control best management practices, insect control best management practices, and animal waste management systems and application. Funding for animal waste management shall be allocated for practices in river basins such that the funds will have the greatest impact in improving water quality.
  - (6) Except as provided in subdivision (8) and subdivision (9) of this subsection, State funding shall be limited to seventy-five percent (75%) of the average cost for each practice with the assisted farmer providing twenty-five percent (25%) of the cost, which may include in-kind support of the practice, with a maximum of seventy-five thousand dollars (\$75,000) per year to each applicant.
  - (7) Priority designation for inclusion in the program for State funding shall be given to projects that improve water quality. To be eligible for cost share funds under this subdivision, a project shall be evaluated

- before funding is awarded and after the project is completed to determine the impact on water quality.
- (8) For practices that are eligible for funding from the federal Conservation Reserve Enhancement Program, State funding from the program shall be limited to seventy-five percent (75%) of the average cost of each practice, with the remainder paid from funding from the Conservation Reserve Enhancement Program, other available federal funds, other State funds, or the assisted farmer, whose contribution may include in-kind support of the practice. This subdivision is subject to subdivision (9) of this subsection.
- (9) When the applicant is either a limited-resource farmer or a beginning farmer, State funding shall be limited to ninety percent (90%) of the average cost for each practice with the assisted farmer providing ten percent (10%) of the cost, which may include in-kind support of the practice, with a maximum of one hundred thousand dollars (\$100,000) per year to each applicant. The following definitions apply in this subdivision:
- a. Beginning farmer. – A farmer who has not operated a farm or who has operated a farm for not more than 10 years and who will materially and substantially participate in the operation of the farm.
  - b. Limited-resource farmer. – A farmer with direct and indirect gross farm sales that do not exceed one hundred thousand dollars (\$100,000).
  - c. Materially and substantially participate. –
    1. In the case of an individual, for the individual, including members of the immediate family of the individual, to provide substantial day-to-day labor and management of the farm, consistent with the practices in the county in which the farm is located.
    2. In the case of an entity, for all members of the entity, to participate in the operation of the farm, with some members providing management and some members providing labor and management necessary for day-to-day activities such that if the members did not provide the management and labor, the operation of the farm would be seriously impaired."

**STUDY/IMPACT OF ACQUISITION OF LAND FOR CONSERVATION PURPOSES ON LOCAL GOVERNMENT AD VALOREM TAX REVENUES**

**SECTION 11.7.(a)** The Property Tax Subcommittee of the Revenue Laws Study Committee shall study the positive and negative impacts of the acquisition of land by the State and non-profit organizations using money from the Clean Water Management Trust Fund and other State funds for conservation purposes on local government ad valorem tax revenues. In conducting this study, the Subcommittee may consider efforts by other states and the federal government to mitigate the negative impacts of acquisition of land by government or non-profit organizations for conservation purposes on local government ad valorem tax revenues.

**SECTION 11.7.(b)** The Subcommittee shall, by January 15, 2004, and more frequently as requested report its findings to the Joint Legislative Commission on Governmental Operations, the Revenue Laws Study Committee, and the Fiscal Research Division.

**CLEAN WATER MANAGEMENT TRUST FUND  
APPROPRIATION/FARMLAND PRESERVATION PROJECTS**

**SECTION 11.8.(a)** Notwithstanding G.S. 143-15.3B(a), for the 2003-2005 fiscal biennium only, the appropriation to the Clean Water Management Trust Fund for the 2003-2004 fiscal year is only sixty-two million dollars (\$62,000,000) as provided by this act and is only sixty-two million dollars (\$62,000,000) for the 2004-2005 fiscal year as provided by this act. The funds appropriated by this act to the Clean Water Management Trust Fund shall be used as provided by G.S. 143-15.3B(b).

**SECTION 11.8.(b)** Notwithstanding G.S. 113-145.3, for the 2003-2004 fiscal year only, the Clean Water Management Trust Fund Board of Trustees may allocate up to four million one hundred thousand dollars (\$4,100,000) to match federal, State, local, and private farmland preservation and forestland preservation funds and to acquire permanent conservation easements on working farms and forests.

**STATE MATCH FOR FEDERAL SAFE DRINKING WATER ACT FUNDS**

**SECTION 11.10.** Notwithstanding the provisions of Chapter 159G of the General Statutes, the Department of Environment and Natural Resources may transfer and use up to one million seven hundred thousand dollars (\$1,700,000) of the funds available in the General Water Supply Revolving Loan Account for the 2003-2004 fiscal year to match the federal grant moneys authorized by section 1452 of the federal Safe Drinking Water Act Amendments of 1996 for the 2003-2004 fiscal year. The General Water Supply Revolving Loan Account is an account under the Clean Water Revolving Loan and Grant Fund and is established under G.S. 159G-4. The Clean Water Revolving Loan and Grant Fund is established by G.S. 159G-5.

**PART XII. DEPARTMENT OF COMMERCE**

**WANCHESE SEAFOOD INDUSTRIAL PARK/OREGON INLET FUNDS**

**SECTION 12.1.(a)** Of the funds appropriated in this act to the Department of Commerce for the Wanchese Seafood Industrial Park, the sum of one hundred twenty-seven thousand eight hundred seventy dollars (\$127,870) for the 2003-2004 fiscal year and the sum of one hundred twenty-seven thousand eight hundred seventy dollars (\$127,870) for the 2004-2005 fiscal year may be expended by the North Carolina Seafood Industrial Park Authority for operations, maintenance, repair, and capital improvements in accordance with Article 23C of Chapter 113 of the General Statutes, in addition to funds available to the Authority for these purposes.

**SECTION 12.1.(b)** Funds appropriated to the Department of Commerce for the 2002-2003 fiscal year for the Oregon Inlet Project that are unexpended and unencumbered as of June 30, 2003, shall not revert to the General Fund on June 30, 2003, but shall remain available to the Department for legal costs associated with the Project. This section becomes effective June 30, 2003.



**COUNCIL OF GOVERNMENT FUNDS**

**SECTION 12.2.(a)** Of the funds appropriated in this act to the Department of Commerce, eight hundred thirty-two thousand one hundred fifty dollars (\$832,150) for the 2003-2004 fiscal year and eight hundred thirty-two thousand one hundred fifty dollars (\$832,150) for the 2004-2005 fiscal year shall only be used as provided by this section. Each regional council of government or lead regional organization is allocated up to forty-eight thousand nine hundred fifty dollars (\$48,950) for the 2003-2004 and the 2004-2005 fiscal years.

**SECTION 12.2.(b)** A regional council of government may use funds appropriated by this section only to assist local governments in grant applications, economic development, community development, support of local industrial development activities, and other activities as deemed appropriate by the member governments.

**SECTION 12.2.(c)** Funds appropriated by this section shall be paid by electronic transfer in two equal installments, the first no later than September 1, 2003, and the second subsequent to acceptable submission of the annual report due to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division by January 15, 2005, as specified in subdivision (e)(2) of this section.

**SECTION 12.2.(d)** Funds appropriated by this section shall not be used for payment of dues or assessments by the member governments and shall not supplant funds appropriated by the member governments.

**SECTION 12.2.(e)** Each council of government or lead regional organization shall do the following:

- (1) By January 15, 2004, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
  - a. State fiscal year 2002-2003 program activities, objectives, and accomplishments;
  - b. State fiscal year 2002-2003 itemized expenditures and fund sources;
  - c. State fiscal year 2003-2004 planned activities, objectives, and accomplishments, including actual results through December 31, 2003; and
  - d. State fiscal year 2003-2004 estimated itemized expenditures and fund sources, including actual expenditures and fund sources through December 31, 2003;
- (2) By January 15, 2005, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
  - a. State fiscal year 2003-2004 program activities, objectives, and accomplishments;
  - b. State fiscal year 2003-2004 itemized expenditures and fund sources;
  - c. State fiscal year 2004-2005 planned activities, objectives, and accomplishments, including actual results through December 31, 2004; and
  - d. State fiscal year 2004-2005 estimated itemized expenditures and fund sources, including actual expenditures and fund sources through December 31, 2004; and

- (3) Provide to the Fiscal Research Division a copy of the organization's annual audited financial statement within 30 days of issuance of the statement.

### **TOURISM PROMOTION FUNDS**

**SECTION 12.3.** Funds appropriated in this act to the Department of Commerce for tourism promotion grants shall be allocated to counties in an effort to direct funds to counties most in need. Determinations of which counties are most in need shall focus on those with the lowest per capita income, highest unemployment, and slowest population growth in the following manner:

- (1) Counties 1 through 20 are each eligible to receive a maximum grant of seven thousand five hundred dollars (\$7,500) for each fiscal year, provided these funds are matched on the basis of one non-State dollar for every four State dollars.
- (2) Counties 21 through 50 are each eligible to receive a maximum grant of three thousand five hundred dollars (\$3,500) for two of the next three fiscal years, provided these funds are matched on the basis of one non-State dollar for every three State dollars.
- (3) Counties 51 through 100 are each eligible to receive a maximum grant of three thousand five hundred dollars (\$3,500) for alternating fiscal years, beginning with the 1991-1992 fiscal year, provided these funds are matched on the basis of four non-State dollars for every State dollar.

### **ONE NORTH CAROLINA – INDUSTRIAL RECRUITMENT COMPETITIVE FUND**

**SECTION 12.4.(a)** Funds appropriated to the Department of Commerce for the One North Carolina - Industrial Recruitment Competitive Fund, unless specifically allocated in this act for another purpose, shall be used to continue the Fund. The purpose of the Fund is to provide financial assistance to those businesses or industries deemed by the Governor to be vital to a healthy and growing State economy and that are making significant efforts to establish or expand in North Carolina.

**SECTION 12.4.(b)** Moneys allocated from the One North Carolina - Industrial Recruitment Competitive Fund shall be used for the following purposes:

- (1) Installation or purchase of equipment.
- (2) Structural repairs, improvements, or renovations of existing buildings to be used for expansion.
- (3) Construction of or improvements to new or existing water, sewer, gas or electric utility distribution lines or equipment for existing buildings.
- (4) Any other purposes specifically provided by an act of the General Assembly.

Moneys may also be used for construction of or improvements to new or existing water, sewer, gas or electric utility distribution lines or equipment to serve new or proposed industrial buildings used for manufacturing and industrial operations. The Governor shall adopt guidelines and procedures for the commitment of moneys from the Fund.

**SECTION 12.4.(c)** The Department of Commerce shall report on or before September 30, 2003, and quarterly thereafter to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division on the commitment,

allocation, and use of funds allocated from the One North Carolina - Industrial Recruitment Competitive Fund.

**SECTION 12.4.(d)** Funds appropriated to the Department of Commerce for the 2002-2003 fiscal year for the One North Carolina - Industrial Recruitment Competitive Fund that are unexpended and unencumbered as of June 30, 2003, shall not revert to the General Fund on June 30, 2003, but shall remain available to the Department for providing financial assistance to those businesses and industries deemed by the Governor to be vital to a healthy and growing State economy and that are making significant efforts to establish or expand in North Carolina.

**SECTION 12.4.(e)** This section becomes effective June 30, 2003.

#### **NORTH CAROLINA EDUCATIONAL DEVELOPMENT**

**SECTION 12.4A.(a)** The General Assembly finds that institutions of higher education play an essential role in maintaining and strengthening the economic health of the State. As our economy evolves from its traditional manufacturing and agricultural base to a diverse structure, including many technology, information, and service-based businesses, innovative educational institutions are essential to providing appropriate workforce preparation and training to maintain the State's viability as an attractive location for new and expanding businesses. Recruiting new educational institutions to the State to fulfill this role also benefits the State and local governments by providing new jobs, a stronger tax base, support for satellite businesses, and investment that will permanently enhance the infrastructure necessary to support long-term growth and prosperity. The General Assembly recognizes that the significant efforts by Johnson and Wales University to establish and expand in North Carolina are vital to a healthy and growing State economy. Providing incentives to support these activities is a critical opportunity for our State to address the possibly irreversible damage from the current economic recession and restructuring.

**SECTION 12.4A.(b)** To carry out the purposes provided in this section, the Department of Commerce shall allocate from funds appropriated in the 2001-2003 fiscal biennium to the One North Carolina - Industrial Recruitment Competitive Fund one million dollars (\$1,000,000) for the 2003-2004 fiscal year to provide financial assistance to Johnson and Wales University. In addition, funds are appropriated in this act to the One North Carolina - Industrial Recruitment Competitive Fund for the 2004-2005 fiscal year. From these funds, the Department of Commerce shall allocate one million dollars (\$1,000,000) for the 2004-2005 fiscal year to provide financial assistance to Johnson and Wales University. Funds allocated under this subsection shall be used only for one or more of the following capital expenditures:

- (1) Installation or purchase of equipment for educational facilities in this State.
- (2) Structural repairs, improvements, or renovations of existing academic buildings in this State to be used for expansion.
- (3) Construction of or improvements to new or existing water, sewer, gas, or electric utility distribution lines or equipment for new or existing academic facilities in this State.
- (4) Construction of new academic facilities in this State.

**INDUSTRIAL DEVELOPMENT FUND**

**SECTION 12.5.(a)** The Department of Commerce shall reduce the cash balance of the Industrial Development Fund by one million one hundred sixty-nine thousand four hundred thirty-eight dollars (\$1,169,438).

**SECTION 12.5.(b)** This section becomes effective June 30, 2003.

**WORKER TRAINING TRUST FUND**

**SECTION 12.6.(a)** There is appropriated from the Worker Training Trust Fund to the Employment Security Commission of North Carolina the sum of five million dollars (\$5,000,000) for the 2003-2004 fiscal year for the operation of local offices.

**SECTION 12.6.(b)** Notwithstanding the provisions of G.S. 96-5(f), there is appropriated from the Worker Training Trust Fund to the following agencies the following sums for the 2003-2004 fiscal year for the following purposes:

- (1) One hundred ninety-three thousand eight hundred seventy-nine dollars (\$193,879) for the 2003-2004 fiscal year to the Employment Security Commission for the State Occupational Information Coordinating Committee to develop and operate an interagency system to track former participants in State education and training programs;
- (2) Fifty-three thousand eight hundred fifty-six dollars (\$53,856) for the 2003-2004 fiscal year to the Employment Security Commission to maintain compliance with Chapter 96 of the General Statutes, which directs the Commission to employ the Common Follow-Up Management Information System to evaluate the effectiveness of the State's job training, education, and placement programs;
- (3) Eight hundred sixty-one thousand six hundred eighty-four dollars (\$861,684) for the 2003-2004 fiscal year to the Department of Labor to continue the Apprenticeship Program; and
- (4) One hundred twenty thousand dollars (\$120,000) for the 2003-2004 fiscal year to the Community Colleges System Office for a training program in entrepreneurial skills to be operated by North Carolina REAL Enterprises.
- (5) One hundred twenty thousand dollars (\$120,000) for the 2003-2004 fiscal year to the Community Colleges System Office for the operation of the Hosiery Technology Center.

**SECTION 12.6.(c)** The agencies listed in subsections (a) and (b) of this section shall, by January 15, 2004, and more frequently as requested, for the programs for which funds are appropriated in this section, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:

- (1) State fiscal year 2003-2004 program activities, objectives, and accomplishments;
- (2) State fiscal year 2003-2004 itemized expenditures and fund sources;
- (3) State fiscal year 2004-2005 planned activities, objectives, and accomplishments including actual results through December 31, 2003; and
- (4) State fiscal year 2004-2005 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 2003.

**SECTION 12.6.(d)** Notwithstanding the provisions of G.S. 96-5(f), funds appropriated for 2002-2003 from the Worker Training Trust Fund to the Community Colleges System Office for both the Focused Industrial Training Program and the Training Initiatives shall not revert but shall remain available to the System Office for personnel and non-personnel support of each program in fiscal year 2003-2004.

#### **FILM INDUSTRY DEVELOPMENT ACCOUNT**

**SECTION 12.6A.(a)** G.S. 143B-434.3 is repealed.

**SECTION 12.6A.(b)** Part 2 of Article 10 of Chapter 143B of the General Statutes is amended by adding the following new section to read:

**"§ 143B-434.4. Film Industry Development Account.**

- (a) Legislative Findings and Purpose. – The General Assembly finds that:
- (1) It is the policy of the State of North Carolina to stimulate economic activity and to create new jobs for the citizens of the State by encouraging and promoting the growth and expansion of businesses and industries within the State.
  - (2) The North Carolina film production industry barely existed in the late 1970s.
  - (3) Since that time, the North Carolina film production industry has grown to employ thousands of North Carolinians and to support seven studio complexes, hundreds of production service and support companies, and a substantial permanent resident crew base of film professionals, all of which contribute to the economy of the State and are a source of tax revenue for the State and local governments.
  - (4) North Carolina, through its film industry, has hosted over 600 productions over the past 20 years, is regarded as the country's third largest film-making state behind California and New York, and has hosted productions in at least 75 out of North Carolina's 100 counties.
  - (5) Because of the nature of the national film production industry, the success and economic viability of North Carolina's film production industry depend in many respects on the State's ability to attract productions originating from other states such as California and New York to undertake production activity in North Carolina utilizing the State's existing film industry infrastructure.
  - (6) The national film production industry is a highly creative industry in which decisions to film productions in North Carolina are typically made outside of the State and are frequently based upon factors such as cost of production.
  - (7) However, current trends in the industry, including trends in foreign countries such as Canada, to develop new and creative means to attract, and to cut production costs for, the type of productions that, in the past, have sustained North Carolina's film industry, threaten the viability of the State's investments in its film industry and film production infrastructure.
  - (8) Recent changes in the State's economic condition have created a level of economic distress that requires a reevaluation of certain existing State programs, and the enactment and funding of programs such as the Film Industry Development Account are designed to stimulate new

economic activity and to create new jobs and opportunities for employment within the State.

- (9) The enactment, funding, and administration of this program are necessary to stimulate the economy, facilitate economic recovery, create new jobs in North Carolina, and help sustain and preserve the State's investments in the film production industry and will promote the general welfare and confer, as its primary purpose and effect, benefits on citizens throughout the State through the creation of new jobs and opportunities for employment, an enlargement of the overall tax base, an expansion and diversification of the State's industrial base, and an increase in revenue to the State and its political subdivisions, in accord with the policies declared in G.S. 143B-428.
- (10) The purpose of the Film Industry Development Account is to stimulate economic activity and to create jobs and employment opportunities within the State.

(b) Creation of Account. – There is created in the Department of Commerce, Division of Tourism, Film, and Sports Development, the Film Industry Development Account to provide annual grants as incentives to production companies that engage in production activities in this State. The Division of Tourism, Film, and Sports Development shall administer this program in accordance with the following provisions:

- (1) To be eligible for a grant, a production company must engage in production activities in this State with expenditures in this State of at least one million dollars (\$1,000,000). A grant may not be used for political or issue advertising.
- (2) A grant may not exceed fifteen percent (15%) of the amount the production company spends for goods and services in this State during the calendar year.
- (3) A grant may not exceed two hundred thousand dollars (\$200,000) per production.
- (4) Grants shall be awarded to productions that substantially utilize North Carolina's film industry infrastructure and workforce, that stimulate economic activity within the State, and that create employment opportunities within the State.

(c) Production Company Defined. – As used in this section, the term "production company" has the meaning provided in G.S. 105-164.3.

(d) Limitation on Eligibility. – No production company shall be eligible for a grant under this section if an original motion picture, television, or radio image for theatrical, commercial, advertising, or educational purposes made by that company contains material that is considered obscene, as defined by G.S. 14-190.1(b).

(e) Reports. – The Department of Commerce shall report annually to the General Assembly concerning the applications made to the account, the payments made from the account, and the effect of the payments on job creation in the State. The Department of Commerce shall also report quarterly to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on the use of the moneys in the account, including information regarding to whom payments were made and in what amounts."

**SECTION 12.6A.(c)** G.S. 143B-430 is amended by adding a new subsection to read:

"(c) The Secretary of Commerce may adopt rules to administer a program or fulfill a duty assigned to the Department of Commerce or the Secretary of Commerce."

**SECTION 12.6A.(d)** This section becomes effective on and after August 2, 2000.

#### **INDUSTRIAL COMMISSION FEES/COMPUTER SYSTEM REPLACEMENT**

**SECTION 12.6C.(a)** The North Carolina Industrial Commission may retain the additional revenue generated by raising the fee charged to parties for the filing of compromised settlements from two hundred dollars (\$200.00) to an amount that does not exceed two hundred fifty dollars (\$250.00) for the purpose of replacing existing computer hardware and software used for the operations of the Commission. These funds may also be used to prepare any assessment of hardware and software needs prior to purchase. The Commission may not retain any fees under this section unless they are in excess of the current two-hundred-dollar (\$200.00) fee charged by the Commission for filing a compromise settlement.

**SECTION 12.6C.(b)** Nothing in this section shall be deemed to limit or restrict the Commission's authority to increase fees for purposes other than those indicated in subsection (a) of this section.

**SECTION 12.6C.(c)** Unexpended and unencumbered fees retained by the Industrial Commission under subsection (a) of this section shall not revert to the General Fund on June 30 of each fiscal year, but shall remain available to the Commission for the purposes stated in subsection (a) of this section.

**SECTION 12.6C.(d)** All plans and purchases by the Commission utilizing fees retained under subsection (a) of this section are subject to project certification by the Information Resources Management Commission, and the Commission in making purchases under subsection (a) of this section must follow the procurement process outlined in accordance with the provisions of 09 NCAC 06B. 0300. The Commission shall report its plans to replace existing computer hardware and software to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division prior to issuing any requests for proposals.

**SECTION 12.6C.(e)** The Commission may retain additional fees as authorized by subsection (a) of this section only in the 2003-2005 fiscal biennium and shall not retain any additional fees after the 2003-2005 fiscal biennium.

#### **FILM INDUSTRY DEVELOPMENT FUNDS**

**SECTION 12.6D.(a)** Of the funds in the Film Industry Development Account created in Part 2 of Article 10 of Chapter 143B of the General Statutes, the sum of five hundred thousand dollars (\$500,000) is reallocated to the Wilmington Regional Film Commission, Inc., a nonprofit corporation, for economic development services to develop and provide financial assistance and support necessary to attract to North Carolina a major television production that meets all of the following conditions:

- (1) The production will include at least 12 episodes.
- (2) The production will provide a gross payroll of over seven million dollars (\$7,000,000) and involve over four million dollars (\$4,000,000) in goods and services a year.

- (3) The production will provide well-paying employment, including over 100 full-time jobs and several thousand part-time jobs, resulting in estimated State payroll taxes of more than five hundred thousand dollars (\$500,000) a year.
- (4) The estimated sales taxes, accommodations taxes, and rental car taxes from the production will be more than thirty-five thousand dollars (\$35,000) a year.
- (5) The production will utilize existing film production facilities and benefit the State through the tourism, marketing, and recognition effects it will have.

**SECTION 12.6D.(b)** The Wilmington Regional Film Commission, Inc., shall administer the funds in accordance with a contract that conditions expenditure of the funds on completion of 12 full episodes of the production.

**SECTION 12.6D.(c)** The General Assembly finds that this allocation is for the purposes provided in Section 12.6A of this act.

#### **FILM DEVELOPMENT ACCOUNT FUNDS DO NOT REVERT**

**SECTION 12.6E.** Funds appropriated to the Department of Commerce for the 2002-2003 fiscal year for the Film Industry Development Account that are unexpended and unencumbered as of June 30, 2003, shall not revert to the General Fund on June 30, 2003, but shall remain available to the Department of Commerce to fund the Film Industry Development Account.

#### **REGIONAL ECONOMIC DEVELOPMENT COMMISSION ALLOCATIONS**

**SECTION 12.7.(a)** Funds appropriated in this act to the Department of Commerce for regional economic development commissions shall be allocated to the following Commissions in accordance with subsection (b) of this section: Western North Carolina Regional Economic Development Commission, Research Triangle Regional Commission, Southeastern North Carolina Regional Economic Development Commission, Piedmont Triad Partnership, Northeastern North Carolina Regional Economic Development Commission, Global TransPark Development Commission, and Carolinas Partnership, Inc.

**SECTION 12.7.(b)** Funds appropriated pursuant to subsection (a) of this section shall be allocated to each Regional Economic Development Commission as follows:

- (1) First, the Department shall establish each Commission's allocation by determining the sum of allocations to each county that is a member of that Commission. Each county's allocation shall be determined by dividing the county's enterprise factor by the sum of the enterprise factors for eligible counties and multiplying the resulting percentage by the amount of the appropriation. As used in this subdivision, the term "enterprise factor" means a county's enterprise factor as calculated under G.S. 105-129.3; and
- (2) Next, the Department shall subtract from funds allocated to the Global TransPark Development Commission the sum of one hundred seventy-one thousand nine hundred seventy-nine dollars (\$171,979) in each fiscal year, which sum represents the interest earnings in each fiscal year on the estimated balance of seven million five hundred thousand dollars (\$7,500,000) appropriated to the Global TransPark



Development Zone in Section 6 of Chapter 561 of the 1993 Session Laws; and

- (3) Next, the Department shall redistribute the sum of one hundred seventy-one thousand nine hundred seventy-nine dollars (\$171,979) in each fiscal year to the seven Regional Economic Development Commissions named in subsection (a) of this section. Each Commission's share of this redistribution shall be determined according to the enterprise factor formula set out in subdivision (1) of this subsection. This redistribution shall be in addition to each Commission's allocation determined under subdivision (1) of this subsection.

## **REGIONAL ECONOMIC DEVELOPMENT COMMISSION REPORTS**

**SECTION 12.8.(a)** By February 15 of each fiscal year, beginning in 2004, the seven regional economic development commissions shall report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:

- (1) The preceding fiscal year's program activities, objectives, and accomplishments.
- (2) The preceding fiscal year's itemized expenditures and fund sources.
- (3) Demonstration of how the commission's regional economic development and marketing strategy aligns with the State's overall economic development and marketing strategies.
- (4) To the extent they are involved in promotion activities such as trade shows, visits to prospects and consultants, advertising and media placement, the commissions shall demonstrate how they have generated qualified leads.

**SECTION 12.8.(b)** Each of the commissions shall provide to the Fiscal Research Division a copy of their annual audited financial statement within 30 days of issuance of the statement.

**SECTION 12.8.(c)** The reporting requirements for regional economic development commissions, as provided in subsection (a) of this section, shall be reviewed annually by the North Carolina Partnership for Economic Development and recommendations for changes to the reporting requirements shall be made to the Fiscal Research Division, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives.

**SECTION 12.8.(d)** Regional economic development commissions shall receive quarterly allocations of the funds appropriated in this act to the Department of Commerce for regional economic development commissions.

**SECTION 12.8.(e)** Regional economic development commissions shall remain in the Department of Commerce's Budget Code 14601 with other State-aided nonprofit entities.

**SECTION 12.8.(f)** The Board Structure of the Global TransPark Development Commission shall be studied in accordance with the recommendations found in the UNC Kenan-Flagler study, to determine if the board structure should be reconstituted and made similar to the boards of the Northeastern or Southeastern North Carolina Regional Economic Development Commissions. In conducting the study, the following conditions shall be met:

- (1) The Global TransPark Development Commission shall contribute to the cost of the study by retaining a consultant familiar with the partnership.
- (2) The Study shall be conducted by a designee of the North Carolina Partnership for Economic Development determined by the Partnership Presidents, a designee of the UNC Kenan-Flager School of Business, and the consultant retained by the Global TransPark Development Commission.
- (3) None of the eastern regional commissions shall be consolidated.
- (4) The results of the study shall be submitted to the Fiscal Research Division and members of the North Carolina Partnership for Economic Development prior to the beginning of the 2004 Regular Session of the 2003 General Assembly.

#### **NONPROFIT REPORTING REQUIREMENTS**

**SECTION 12.9.(a)** The N.C. Institute for Minority Economic Development, Inc., Land Loss Prevention Project, North Carolina Minority Support Center, North Carolina Community Development Initiative, Inc., North Carolina Association of Community Development Corporations, Inc., Coalition of Farm and Rural Families, and Partnership for the Sounds, Inc., shall do the following:

- (1) By January 15, 2004, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
  - a. State fiscal year 2002-2003 program activities, objectives, and accomplishments;
  - b. State fiscal year 2002-2003 itemized expenditures and fund sources;
  - c. State fiscal year 2003-2004 planned activities, objectives, and accomplishments including actual results through December 31, 2003; and
  - d. State fiscal year 2003-2004 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 2003;
- (2) By January 15, 2005, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
  - a. State fiscal year 2003-2004 program activities, objectives, and accomplishments;
  - b. State fiscal year 2003-2004 itemized expenditures and fund sources;
  - c. State fiscal year 2004-2005 planned activities, objectives, and accomplishments including actual results through December 31, 2004; and
  - d. State fiscal year 2004-2005 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 2004; and
- (3) Provide to the Fiscal Research Division a copy of the organization's annual audited financial statement within 30 days of issuance of the statement.

**SECTION 12.9.(b)** No funds appropriated under this act shall be released to a nonprofit organization listed in subsection (a) of this section until the organization has satisfied the reporting requirement for January 15, 2003. Fourth quarter allotments shall not be released to any nonprofit organization that does not satisfy the reporting requirements by January 15, 2004, or January 15, 2005.

#### **BIOTECHNOLOGY CENTER**

**SECTION 12.10.(a)** The North Carolina Biotechnology Center shall recapture funds spent in support of successful research and development efforts in the for-profit private sector.

**SECTION 12.10.(b)** The North Carolina Biotechnology Center shall provide funding for biotechnology, biomedical, and related bioscience applications under its Business and Science Technology Programs.

**SECTION 12.10.(c)** The North Carolina Biotechnology Center shall:

- (1) By January 15, 2004, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
  - a. State fiscal year 2002-2003 program activities, objectives, and accomplishments;
  - b. State fiscal year 2002-2003 itemized expenditures and fund sources;
  - c. State fiscal year 2003-2004 planned activities, objectives, and accomplishments including actual results through December 31, 2003; and
  - d. State fiscal year 2003-2004 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 2003;
- (2) By January 15, 2005, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
  - a. State fiscal year 2003-2004 program activities, objectives, and accomplishments;
  - b. State fiscal year 2003-2004 itemized expenditures and fund sources;
  - c. State fiscal year 2004-2005 planned activities, objectives, and accomplishments including actual results through December 31, 2004; and
  - d. State fiscal year 2004-2005 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 2004; and
- (3) Provide to the Fiscal Research Division a copy of the organization's annual audited financial statement within 30 days of issuance of the statement.

**SECTION 12.10.(d)** The North Carolina Biotechnology Center shall provide a report containing detailed budget, personnel, and salary information to the Office of State Budget and Management and to the Fiscal Research Division in the same manner as State departments and agencies in preparation for biennium budget requests.

**RURAL ECONOMIC DEVELOPMENT CENTER**

**SECTION 12.11.(a)** Of the funds appropriated in this act to the Rural Economic Development Center, Inc., the sum of one million eight hundred forty-one thousand six hundred ninety-seven dollars (\$1,881,697) for the 2003-2004 fiscal year and the sum of one million eight hundred eighty-one thousand six hundred ninety-seven dollars (\$1,881,697) for the 2004-2005 fiscal year shall be allocated as follows:

	2003-2004 FY	2004-2005 FY
Research and Demonstration Grants	\$370,000	\$370,000
Technical Assistance and Center Administration of Research and Demonstration Grants	444,399	444,399
Center Administration, Oversight, and Other Programs	604,298	604,298
Administration of Clean Water/Natural Gas Critical Needs Bond Act of 1998	199,722	199,722
Additional Administration of Supplemental Funding Program	138,278	138,278
Administration of Capacity Building Assistance Program (1998 Bond Act)	125,000	125,000.

**SECTION 12.11.(b)** The Rural Economic Development Center, Inc., shall provide a report containing detailed budget, personnel, and salary information to the Office of State Budget and Management in the same manner as State departments and agencies in preparation for biennium budget requests.

**SECTION 12.11.(c)** For purposes of this section, the term "community development corporation" means a nonprofit corporation:

- (1) Chartered pursuant to Chapter 55A of the General Statutes;
- (2) Tax-exempt pursuant to section 501(c)(3) of the Internal Revenue Code of 1986;
- (3) Whose primary mission is to develop and improve low-income communities and neighborhoods through economic and related development;
- (4) Whose activities and decisions are initiated, managed, and controlled by the constituents of those local communities; and
- (5) Whose primary function is to act as deal-maker and packager of projects and activities that will increase their constituencies' opportunities to become owners, managers, and producers of small businesses, affordable housing, and jobs designed to produce positive cash flow and curb blight in the targeted community.

**SECTION 12.11.(d)** Of the funds appropriated in this act to the Rural Economic Development Center, Inc., the sum of two million four hundred fifteen thousand nine hundred ten dollars (\$2,415,910) for the 2003-2004 fiscal year and the sum of two million four hundred fifteen thousand nine hundred ten dollars (\$2,415,910) for the 2004-2005 fiscal year shall be allocated as follows:

- (1) \$1,047,410 in each fiscal year for community development grants to support development projects and activities within the State's minority communities. Any community development corporation as defined in this section is eligible to apply for funds. The Rural Economic Development Center, Inc., shall establish performance-based criteria

for determining which community development corporation will receive a grant and the grant amount. The Rural Economic Development Center, Inc., shall allocate these funds as follows:

- a. \$800,000 in each fiscal year for direct grants to the local community development corporations that have previously received State funds for this purpose to support operations and project activities;
  - b. \$197,410 in each fiscal year for direct grants to local community development corporations that have not previously received State funds; and
  - c. \$50,000 in each fiscal year to the Rural Economic Development Center, Inc., to be used to cover expenses in administering this section.
- (2) \$195,000 in each fiscal year to the Microenterprise Loan Program to support the loan fund and operations of the Program; and
- (3) \$983,000 in each fiscal year shall be used for a program to provide supplemental funding for matching requirements for projects and activities authorized under this subsection. The Center shall allocate these funds as follows:
- a. \$675,000 in each fiscal year to make grants to local governments and nonprofit corporations to provide funds necessary to match federal grants or other grants for:
    1. Necessary economic development projects and activities in economically distressed areas;
    2. Necessary water and sewer projects and activities in economically distressed communities to address health or environmental quality problems except that funds shall not be expended for the repair or replacement of low-pressure pipe wastewater systems. If a grant is awarded under this sub-subdivision, then the grant shall be matched on a dollar-for-dollar basis in the amount of the grant awarded; or
    3. Projects that demonstrate alternative water and waste management processes for local governments. Special consideration should be given to cost-effectiveness, efficacy, management efficiency, and the ability of the demonstration project to be replicated.
  - b. \$208,000 in each fiscal year to make grants to local governments and nonprofit corporations to provide funds necessary to match federal grants or other grants related to water, sewer, or business development projects.
  - c. \$100,000 in each fiscal year to support the update of the statewide water and sewer database and to support the development of a statewide water management plan.
- (4) \$190,500 in each fiscal year for the Agricultural Advancement Consortium. These funds shall be placed in a reserve and allocated as follows:
- a. \$75,000 in each fiscal year for operating expenses associated with the Consortium; and

- b. \$115,500 in each fiscal year for research initiatives funded by the Consortium.

The Consortium shall facilitate discussions among interested parties and shall develop recommendations to improve the State's economic development through farming and agricultural interests.

The grant recipients in this subsection shall be selected on the basis of need.

- SECTION 12.11.(e)** The Rural Economic Development Center, Inc., shall:
- (1) By January 15, 2004, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
    - a. State fiscal year 2002-2003 program activities, objectives, and accomplishments;
    - b. State fiscal year 2002-2003 itemized expenditures and fund sources;
    - c. State fiscal year 2003-2004 planned activities, objectives, and accomplishments including actual results through December 31, 2003; and
    - d. State fiscal year 2003-2004 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 2003.
  - (2) By January 15, 2005, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
    - a. State fiscal year 2003-2004 program activities, objectives, and accomplishments;
    - b. State fiscal year 2003-2004 itemized expenditures and fund sources;
    - c. State fiscal year 2004-2005 planned activities, objectives, and accomplishments including actual results through December 31, 2004; and
    - d. State fiscal year 2004-2005 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 2004.
  - (3) Provide to the Fiscal Research Division a copy of each grant recipient's annual audited financial statement within 30 days of issuance of the statement.

**SECTION 12.11.(f)** No funds appropriated under this act shall be released to a community development corporation, as defined in this act, unless the corporation can demonstrate that there are no outstanding or proposed assessments or other collection actions against the corporation for any State or federal taxes, including related penalties, interest, and fees.

## **OPPORTUNITIES INDUSTRIALIZATION CENTER FUNDS**

**SECTION 12.12.(a)** Of the funds appropriated in this act to the Rural Economic Development Center, Inc., the sum of three hundred sixty-one thousand dollars (\$361,000) for the 2003-2004 fiscal year and the sum of three hundred sixty-one thousand dollars (\$361,000) for the 2004-2005 fiscal year shall be allocated as follows:

- (1) \$90,250 in each fiscal year to the Opportunities Industrialization Center of Wilson, Inc., for its ongoing job training programs;
- (2) \$90,250 in each fiscal year to the Opportunities Industrialization Center, Inc., in Rocky Mount, for its ongoing job training programs;
- (3) \$90,250 in each fiscal year to the Opportunities Industrialization Centers Kinston and Lenoir County, North Carolina, Inc.; and
- (4) \$90,250 in each fiscal year to the Opportunities Industrialization Center of Elizabeth City, Inc.

**SECTION 12.12.(b)** For each of the Opportunities Industrialization Centers receiving funds pursuant to subsection (a) of this section, the Rural Economic Development Center, Inc., shall:

- (1) By January 15, 2004, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
  - a. State fiscal year 2002-2003 program activities, objectives, and accomplishments;
  - b. State fiscal year 2002-2003 itemized expenditures and fund sources;
  - c. State fiscal year 2003-2004 planned activities, objectives, and accomplishments, including actual results through December 31, 2003; and
  - d. State fiscal year 2003-2004 estimated itemized expenditures and fund sources, including actual expenditures and fund sources through December 31, 2003.
- (2) By January 15, 2005, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
  - a. State fiscal year 2003-2004 program activities, objectives, and accomplishments;
  - b. State fiscal year 2003-2004 itemized expenditures and fund sources;
  - c. State fiscal year 2004-2005 planned activities, objectives, and accomplishments, including actual results through December 31, 2004; and
  - d. State fiscal year 2004-2005 estimated itemized expenditures and fund sources, including actual expenditures and fund sources through December 31, 2004.
- (3) Notwithstanding G.S. 143-6.1(d), file annually with the State Auditor a financial statement in the form and on the schedule prescribed by the State Auditor. The financial statements must be audited in accordance with standards prescribed by the State Auditor to assure that State funds are used for the purposes provided by law.
- (4) Provide to the Fiscal Research Division a copy of the annual audited financial statement required in subdivision (3) of this subsection within 30 days of issuance of the statement.

**SECTION 12.12.(c)** No funds appropriated under this act shall be released to an Opportunities Industrialization Center (hereinafter Center) listed in subsection (a) of this section unless the Center can demonstrate that there are no outstanding or

proposed assessments or other collection actions against the Center for any State or federal taxes, including related penalties, interest, and fees.

## **PART XIII. JUDICIAL DEPARTMENT**

### **OPERATIONAL SAVINGS/FUNDING RESERVES**

**SECTION 13.1.(a)** The Judicial Department shall report by September 1, 2003, to the Chairs of the Senate and House of Representatives Appropriations Committees and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety on the positions identified in the Administrative Office of the Courts in order to implement operational savings.

**SECTION 13.1.(b)** The Judicial Department, the Department of Correction, the Department of Crime Control and Public Safety, the Department of Juvenile Justice and Delinquency Prevention, and the Department of Justice shall report quarterly to the Chairs of the Senate and House of Representatives Appropriations Committees and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety on the implementation of management flexibility reserves authorized for each agency in this budget. The departments shall report to the Joint Legislative Commission on Governmental Operations before implementing management flexibility reserves by eliminating positions or abolishing programs.

### **COLLECTION OF WORTHLESS CHECK FUNDS**

**SECTION 13.2.** Notwithstanding the provisions of G.S. 7A-308(c), the Judicial Department may use any balance remaining in the Collection of Worthless Checks Fund on June 30, 2003, for the purchase or repair of office or information technology equipment during the 2003-2004 fiscal year. Prior to using any funds under this section, the Judicial Department shall report to the Joint Legislative Commission on Governmental Operations and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety on the equipment to be purchased or repaired and the reasons for the purchases.

### **OFFICE OF INDIGENT DEFENSE SERVICES REPORT**

**SECTION 13.3.** The Office of Indigent Defense Services shall report to the Chairs of the Senate and House of Representatives Appropriations Committees and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by March 1 of each year on:

- (1) The volume and cost of cases handled in each district by assigned counsel or public defenders;
- (2) Actions taken by the Office to improve the cost-effectiveness and quality of indigent defense, including the capital case program;
- (3) Plans for changes in rules, standards, or regulations in the upcoming year; and
- (4) Any recommended changes in law or funding procedures that would assist the Office in improving the management of funds expended for indigent defense services.



**DRUG TREATMENT COURT PROGRAM**

**SECTION 13.4.(a)** It is the intent of the General Assembly that, allowing for established local differences in implementation, State Drug Treatment Court funds not be used to fund case manager positions when the services provided by those positions can be reasonably provided by the Treatment Alternatives to Street Crime (TASC) program in the Department of Health and Human Services or by other existing resources. The Drug Treatment Court Program shall identify areas of potential cost savings in the local programs that would result from reducing the number of case manager positions. The Program shall also identify areas in which federal funding might absorb administrative costs.

The Drug Treatment Court Program shall report by February 1, 2004, to the Chairs of the Senate and House of Representatives Appropriations Committees and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety on the savings identified. The report shall include a transition plan for sustaining any local program that is currently receiving federal grant funding.

**SECTION 13.4.(b)** Prior to the establishment of any new local drug treatment court programs, the local drug treatment court management committee shall consult with the TASC program as to the availability of case management services in that community.

**FEDERAL GRANT FUNDS**

**SECTION 13.5.** The Judicial Department shall use up to the sum of one million two hundred fifty thousand dollars (\$1,250,000) from funds available to the Department to provide the State match needed in order to receive federal grant funds. Prior to using funds for this purpose, the Department shall report to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Commission on Governmental Operations on the grants to be matched using these funds. The Judicial Department may also use proceeds from the Court Information Technology Fund to fulfill prior obligations to criminal justice information projects receiving federal funds.

**PUBLIC DEFENDER STUDY**

**SECTION 13.6.** The Office of Indigent Defense Services shall study the establishment of additional public defender districts in the State, identifying the areas of the State in which savings could be realized by the establishment of such districts and the projected savings in each area. The Office of Indigent Defense Services shall report to the Chairs of the Senate and House of Representatives Appropriations Committees and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by March 1, 2004, on the results of its study.

**TRANSFER OF EQUIPMENT AND SUPPLY FUNDS**

**SECTION 13.7.** Funds appropriated to the Judicial Department in the 2003-2005 biennium for equipment and supplies shall be certified in a reserve account. The Administrative Office of the Courts may transfer these funds to the appropriate programs and between programs as the equipment priorities and supply consumptions occur during the operating year. These funds shall not be expended for any other purpose.

**ADJUST MAGISTRATE AUTHORIZATIONS****SECTION 13.8.** G.S. 7A-133(c) reads as rewritten:

"(c) Each county shall have the numbers of magistrates and additional seats of district court, as set forth in the following table:

County	Magistrates Min. – Max.		Additional Seats of Court
Camden	1	3	
Chowan	2	3	
Currituck	1	4	
Dare	3	8	
Gates	2	3	
Pasquotank	3	5	
Perquimans	2	4	
Martin	<del>5</del> <u>4</u>	8	
Beaufort	4	8	
Tyrrell	1	3	
Hyde	2	4	
Washington	3	4	
Pitt	10	12	Farmville Ayden Havelock
Craven	7	10	
Pamlico	2	4	
Carteret	5	8	
Sampson	6	8	
Duplin	<del>9</del> <u>8</u>	11	
Jones	2	3	
Onslow	8	14	
New Hanover	6	11	
Pender	4	6	
Halifax	9	14	Roanoke Rapids, Scotland Neck
Northampton	5	7	
Bertie	4	6	
Hertford	5	7	
Nash	7	10	Rocky Mount
Edgecombe	4	7	Rocky Mount
Wilson	4	7	
Wayne	5	12	Mount Olive
Greene	2	4	
Lenoir	4	10	La Grange
Granville	3	7	
Vance	3	6	
Warren	3	5	
Franklin	3	7	
Person	3	4	
Caswell	2	5	

Wake	12	21	Apex, Wendell, Fuquay- Varina, Wake Forest
Harnett	7	11	Dunn
Johnston	10	12	Benson, Clayton, Selma
Lee	4	6	
Cumberland	10	19	
Bladen	4	6	
Brunswick	4	9	
Columbus	6	10	Tabor City
Durham	8	13	
Alamance	7	11	Burlington
Orange	4	11	Chapel Hill
Chatham	3	9	Siler City
Scotland	3	5	
Hoke	4	5	
Robeson	8	16	Fairmont, Maxton, Pembroke, Red Springs, Rowland, St. Pauls
Rockingham	4	9	Reidsville, Eden, Madison
Stokes	2	5	
Surry	5	9	Mt. Airy
Guilford	20	27	High Point
Cabarrus	5	9	Kannapolis
Montgomery	2	4	
Randolph	5	10	Liberty
Rowan	5	10	
Stanly	5	6	
Union	4	7	
Anson	4	6	
Richmond	5	6	Hamlet
Moore	5	8	Southern Pines
Forsyth	3	15	Kernersville
Alexander	2	4	
Davidson	7	10	Thomasville
Davie	2	3	
Iredell	4	9	Mooresville
Alleghany	1	2	
Ashe	3	4	

Wilkes	4	6	
Yadkin	3	5	
Avery	3	5	
Madison	4	5	
Mitchell	3	4	
Watauga	4	6	
Yancey	2	4	
Burke	4	7	
Caldwell	4	7	
Catawba	6	10	Hickory
Mecklenburg	15	28	
Gaston	11	22	
Cleveland	5	8	
Lincoln	4	7	
Buncombe	6	15	
Henderson	4	7	
McDowell	3	6	
Polk	3	4	
Rutherford	6	8	
Transylvania	2	4	
Cherokee	3	4	
Clay	1	2	
Graham	2	3	
Haywood	5	7	Canton
Jackson	3	5	
Macon	3	4	
Swain	2	<del>3</del> 4"	

#### **NORTH CAROLINA STATE BAR FUNDS**

**SECTION 13.10.** Of the funds appropriated in the continuation budget as a grant-in-aid to the North Carolina State Bar for the 2003-2005 biennium, the North Carolina State Bar may in its discretion use up to the sum of five hundred ninety thousand dollars (\$590,000) for the 2003-2004 fiscal year and up to the sum of five hundred ninety thousand dollars (\$590,000) for the 2004-2005 fiscal year to contract with the Center for Death Penalty Litigation to provide training, consultation, brief banking, and other assistance to attorneys representing indigent capital defendants. The Office of Indigent Defense Services shall report by February 1, 2004, to the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety on the activities funded by the grant-in-aid authorized by this section.

#### **CLARIFY PARTIAL PAYMENT OF APPOINTMENT FEE FOR CRIMINAL DEFENDANTS**

**SECTION 13.11.** G.S. 7A-455.1 reads as rewritten:

"§ 7A-455.1. **Appointment fee in criminal cases.**

(a) Each person who requests the appointment of counsel in a criminal case shall pay to the clerk of court a nonrefundable appointment fee of fifty dollars (\$50.00) at the time of appointment. ~~Partial payments shall be credited against the amount of the fifty dollar (\$50.00) fee due.~~ No fee shall be due if the court finds that the person is not entitled to the appointment of counsel.

(b) The appointment fee in this section is due regardless of the outcome of the proceedings. ~~If paid before the final determination of the action at the trial level, the amount of the fee paid in full at the time of appointment, the fifty dollars (\$50.00) paid shall be credited against any amounts the court determines to be owed for the value of legal services rendered to the defendant. If not paid before the final determination of the action at the trial level, the unpaid amount of the~~ in full at the time of appointment, the fifty-dollar (\$50.00) fee shall be added to any amounts the court determines to be owed for the value of legal services rendered to the defendant and shall be collected in the same manner as attorneys' fees are collected for such representation. If the fee is not paid in full at the time of appointment, and no attorneys' fees are found due when the action is finally determined at the trial level, a judgment shall be entered, docketed, and indexed pursuant to G.S. 1-233 in the amount of ~~the unpaid fee~~ fifty dollars (\$50.00) and shall constitute a lien as prescribed by the general law of the State applicable to judgments.

(c) The attorney representing the defendant when the action is finally determined at the trial level shall advise the court whether the appointment fee required by this section has been paid.

(d) Inability, failure, or refusal to pay the appointment fee shall not be grounds for denying appointment of counsel, for withdrawal of counsel, or for contempt.

(e) The appointment fee required by this section shall be assessed only once for each affidavit of indigency submitted by a defendant or other determination of indigency by the court, regardless of the number of cases for which an attorney is appointed. An additional appointment fee shall not be assessed for any additional cases thereafter assigned to an attorney if any cases for which a defendant was previously assessed an appointment fee are still pending. Nor shall an additional appointment fee be assessed if the charges for which an attorney was appointed are dismissed and subsequently refiled or if the defendant is appointed an attorney on appeal on a matter for which the defendant was assessed an appointment fee at the trial level.

(f) Of each appointment fee collected under this section, the sum of forty-five dollars (\$45.00) shall be credited to the Indigent Persons' Attorney Fee Fund and the sum of five dollars (\$5.00) shall be credited to the Court Information Technology Fund under G.S. 7A-343.2. These fees shall not revert.

(g) The Office of Indigent Defense Services shall adopt rules and develop forms to govern implementation of this section."

## **PILOT PROJECT ON ASSIGNMENT OF CIVIL CASES**

**SECTION 13.12.(a)** The Administrative Office of the Courts may conduct a pilot project in up to four judicial districts to assess a system for the assignment and processing of general civil cases filed in the General Court of Justice. No district may be selected without the concurrence of the senior resident superior court judge and the chief district court judge, and no more than one pilot project site may be established within a judicial division.

The project shall evaluate methods of assigning cases to individual judges or sessions of court in the district court division or the superior court division, considering the nature of the case, the amount in controversy, the complexity of the issues, the likelihood of settlement, the availability and suitability of alternative dispute resolution programs, and any other appropriate factors relevant to just resolution of the cases and efficient use of court resources. In pilot districts designated by the Administrative Office of the Courts under this section, general civil cases may be assigned or

transferred to alternative dispute resolution programs used within the district court or superior court, notwithstanding the provisions of G.S. 7A-37.1, G.S. 7A-38.1, or Articles 20 and 21 of Chapter 7A of the General Statutes.

**SECTION 13.12.(b)** This section expires June 30, 2005.

#### **DISPUTE RESOLUTION FEE CLARIFICATION**

**SECTION 13.13.** G.S. 7A-38.7 reads as rewritten:

"§ 7A-38.7. **Dispute resolution fee for cases resolved in mediation.**

(a) In each criminal case filed in the General Court of Justice that is resolved through referral to a community mediation center, a dispute resolution fee shall be assessed in the sum of sixty dollars (\$60.00) per mediation for the support of the General Court of Justice. Fees assessed under this section shall be paid to the clerk of superior court in the county where the case was filed and remitted by the clerk to the State Treasurer.

(b) Before providing the district attorney with a dismissal form, the community mediation center shall require proof that the defendant has paid the dispute resolution fee as required by subsection (a) of this ~~section~~ section and shall attach the receipt to the dismissal form."

#### **DIVIDE SUPERIOR COURT DISTRICT 19B**

**SECTION 13.14.(a)** G.S. 7A-41(a) reads as rewritten:

"(a) The counties of the State are organized into judicial divisions and superior court districts, and each superior court district has the counties, and the number of regular resident superior court judges set forth in the following table, and for districts of less than a whole county, as set out in subsection (b) of this section:

Judicial Division	Superior Court District	Counties	No. of Resident Judges
First	1	Camden, Chowan, Currituck, Dare, Gates, Pasquotank, Perquimans	2
First	2	Beaufort, Hyde, Martin, Tyrrell, Washington	1
First	3A	Pitt	2
Second	3B	Carteret, Craven, Pamlico	2
Second	4A	Duplin, Jones, Sampson	1
Second	4B	Onslow	1
Second	5A	(part of New Hanover, part of Pender see subsection (b))	1
	5B	(part of New Hanover, part of Pender see subsection (b))	1
	5C	(part of New Hanover, see subsection (b))	1
First	6A	Halifax	1
First	6B	Bertie, Hertford, Northampton	1
First	7A	Nash	1
First	7B	(part of Wilson, part of Edgecombe, see subsection (b))	1
First	7C	(part of Wilson, part of Edgecombe, see subsection (b))	1

Second	8A	Lenoir and Greene	1
Second	8B	Wayne	1
Third	9	Franklin, Granville, Vance, Warren	2
Third	9A	Person, Caswell	1
Third	10A	(part of Wake, see subsection (b))	2
Third	10B	(part of Wake, see subsection (b))	2
Third	10C	(part of Wake, see subsection (b))	1
Third	10D	(part of Wake, see subsection (b))	1
Fourth	11A	Harnett, Lee	1
Fourth	11B	Johnston	1
Fourth	12A	(part of Cumberland, see subsection (b))	1
Fourth	12B	(part of Cumberland, see subsection (b))	1
Fourth	12C	(part of Cumberland, see subsection (b))	2
Fourth	13	Bladen, Brunswick, Columbus	2
Third	14A	(part of Durham, see subsection (b))	1
Third	14B	(part of Durham, see subsection (b))	3
Third	15A	Alamance	2
Third	15B	Orange, Chatham	1
Fourth	16A	Scotland, Hoke	1
Fourth	16B	Robeson	2
Fifth	17A	Rockingham	2
Fifth	17B	Stokes, Surry	2
Fifth	18A	(part of Guilford, see subsection (b))	1
Fifth	18B	(part of Guilford, see subsection (b))	1
Fifth	18C	(part of Guilford, see subsection (b))	1
Fifth	18D	(part of Guilford, see subsection (b))	1
Fifth	18E	(part of Guilford, see subsection (b))	1
Sixth	19A	Cabarrus	1
Fifth	<del>19B1</del>	<del>(part of Montgomery, part of Moore, part of Randolph see subsection (b))</del>	<del>4</del>
	<del>19B2</del>	<del>(part of Montgomery, part of Moore, part of Randolph see subsection (b))</del>	<del>4</del>
	<u>19B</u>	<u>Montgomery, Randolph</u>	<u>1</u>
Sixth	19C	Rowan	1
<u>Fifth</u>	<u>19D</u>	<u>Moore</u>	<u>1</u>
Sixth	20A	Anson, Richmond	1
Sixth	20B	Stanly, Union	2
Fifth	21A	(part of Forsyth, see subsection (b))	1
Fifth	21B	(part of Forsyth, see subsection (b))	1
Fifth	21C	(part of Forsyth, see subsection (b))	1
Fifth	21D	(part of Forsyth, see subsection (b))	1
Sixth	22	Alexander, Davidson, Davie, Iredell	3
Fifth	23	Alleghany, Ashe, Wilkes, Yadkin	1
Eighth	24	Avery, Madison, Mitchell, Watauga, Yancey	2
Seventh	25A	Burke, Caldwell	2
Seventh	25B	Catawba	2
Seventh	26A	(part of Mecklenburg, see subsection (b))	2
Seventh	26B	(part of Mecklenburg, see subsection (b))	3

Seventh	26C	(part of Mecklenburg, see subsection (b))	2
Seventh	27A	Gaston	2
Seventh	27B	Cleveland, Lincoln	2
Eighth	28	Buncombe	2
Eighth	29	Henderson, McDowell, Polk, Rutherford, Transylvania	2
Eighth	30A	Cherokee, Clay, Graham, Macon, Swain	1
Eighth	30B	Haywood, Jackson	1."
	<b>SECTION 13.14.(b)</b>	G.S.7A-41(b)(24) and G.S. 7A-41(b)(25) are repealed.	

**SECTION 13.14.(c)** The superior court judgeship established for District 19B by subsection (a) of this section shall be filled by the superior court judge from current District 19B who resides in Randolph County. That judge's term expires on December 31, 2008. The successor to that judge shall be elected in the 2008 general election to serve an eight-year term.

**SECTION 13.14.(d)** The superior court judgeship established for District 19D by subsection (a) of this section shall be filled by the superior court judge from current District 19B who resides in Moore County. That judge's term expires on December 31, 2008. The successor to that judge shall be elected in the 2008 general election to serve an eight-year term.

**SECTION 13.14.(e)** The Judicial Department may use funds appropriated up to the sum of thirty-five thousand five hundred forty-nine dollars (\$35,549) for the 2003-2004 fiscal year and up to the sum of fifty-three thousand six hundred ninety-eight dollars (\$53,698) for the 2004-2005 fiscal year to upgrade an existing superior court judgeship to a senior resident superior court judgeship for District 19D and to add an official court reporter for District 19D.

**SECTION 13.14.(f)** This section becomes effective December 1, 2003.

#### **DISPUTE SETTLEMENT CENTERS STUDY/REPORTING OF CASES MEDIATED**

**SECTION 13.15.(a)** The Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee shall:

- (1) Review the funding provided by the General Assembly to community mediation centers, also known as dispute settlement centers or dispute resolution centers.
- (2) Study the use of that funding by the recipient centers.
- (3) Determine whether the language of G.S. 7A-38.5 adequately and accurately states the General Assembly's priorities for dispute settlement centers and for the spending of the State funds received by those centers.
- (4) Recommend whether the match requirements set forth in G.S. 7A-38.6 should be varied according to each dispute settlement center's ability to obtain funding from non-State sources.
- (5) Study any other factors it deems relevant related to State funding of dispute settlement centers.



**SECTION 13.15.(b)** The Committee shall report its findings and recommendations by May 1, 2004, to the Chairs of the Senate and House of Representatives Appropriations Committees and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety.

**SECTION 13.15.(c)** G.S. 7A-38.6(a) reads as rewritten:

"(a) All community mediation centers currently receiving State funds shall report annually to the Mediation Network of North Carolina on the program's funding and activities, including:

- (1) Types of dispute settlement services provided;
- (2) Clients receiving each type of dispute settlement service;
- (3) Number and type of referrals received, cases actually ~~mediated~~, mediated (identified by docket number), cases resolved in mediation, and total clients served in the cases mediated;
- (4) Total program funding and funding sources;
- (5) Itemization of the use of funds, including operating expenses and personnel;
- (6) Itemization of the use of State funds appropriated to the center;
- (7) Level of volunteer activity; and
- (8) Identification of future service demands and budget requirements.

The Mediation Network of North Carolina shall compile and summarize the information provided pursuant to this subsection and shall provide the information to the Chairs of the House of Representatives and Senate Appropriations Committees and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by February 1 of each year."

#### **PART XIV. DEPARTMENT OF JUSTICE**

##### **USE OF SEIZED AND FORFEITED PROPERTY TRANSFERRED TO STATE LAW ENFORCEMENT AGENCIES BY THE FEDERAL GOVERNMENT**

**SECTION 14.1.(a)** Assets transferred to the Departments of Justice, Correction, and Crime Control and Public Safety during the 2003-2005 biennium pursuant to applicable federal law shall be credited to the budgets of the respective departments and shall result in an increase of law enforcement resources for those departments. The Departments of Justice, Correction, and Crime Control and Public Safety shall report to the Joint Legislative Commission on Governmental Operations upon receipt of the assets and, before using the assets, shall report on the intended use of the assets and the departmental priorities on which the assets may be expended.

**SECTION 14.1.(b)** The General Assembly finds that the use of assets transferred pursuant to federal law for new personnel positions, new projects, acquisition of real property, repair of buildings where the repair includes structural change, and construction of or additions to buildings may result in additional expenses for the State in future fiscal periods. Therefore, the Department of Justice, the Department of Correction, and the Department of Crime Control and Public Safety are prohibited from using these assets for such purposes without the prior approval of the General Assembly.

**SECTION 14.1.(c)** Nothing in this section prohibits North Carolina law enforcement agencies from receiving funds from the United States Department of Justice, the United States Department of the Treasury, and the United States Department of Health and Human Services.

**PRIVATE PROTECTIVE SERVICES AND ALARM SYSTEMS LICENSING  
BOARDS PAY FOR USE OF STATE FACILITIES AND SERVICES**

**SECTION 14.2.** The Private Protective Services and Alarm Systems Licensing Boards shall pay the appropriate State agency for the use of physical facilities and services provided to those Boards by the State.

**CERTAIN LITIGATION EXPENSES TO BE PAID BY CLIENTS**

**SECTION 14.3.** Client departments, agencies, and boards shall reimburse the Department of Justice for reasonable court fees, attorney travel and subsistence costs, and other costs directly related to litigation in which the Department of Justice is representing the department, agency, or board.

**REIMBURSEMENT FOR UNC BOARD OF GOVERNORS LEGAL  
REPRESENTATION**

**SECTION 14.4.** The Department of Justice shall be reimbursed by the Board of Governors of The University of North Carolina for two Attorney III positions to provide legal representation to The University of North Carolina System.

**REPORT ON CRIMINAL RECORDS CHECKS CONDUCTED FOR  
CONCEALED HANDGUN PERMITS/STUDY FEE ADJUSTMENT FOR  
CRIMINAL RECORDS CHECKS**

**SECTION 14.5.(a)** The Department of Justice shall report by January 15 each year to the Joint Legislative Commission on Governmental Operations, the Chairs of the Senate and House of Representatives Appropriations Committees, and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety on the receipts, costs for, and number of criminal records checks performed in connection with applications for concealed weapons permits. The report by the Department of Justice shall also include information on the number of applications received and approved for firearms safety courses.

**SECTION 14.5.(b)** The Office of State Budget and Management, in consultation with the Department of Justice, shall study the feasibility of adjusting the fees charged for criminal records checks conducted by the Division of Criminal Information of the Department of Justice as a result of the increase in receipts from criminal records checks. The study shall include an assessment of the Division's operational, personnel, and overhead costs related to providing criminal records checks and how those costs have changed since the prior fiscal year. The Office of State Budget and Management shall report its findings and recommendations to the Chairs of the Senate and House of Representatives Appropriations Committees, the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety, and the Fiscal Research Division on or before March 1, 2004.

**NC LEGAL EDUCATION ASSISTANCE FOUNDATION REPORT ON FUNDS  
DISBURSED**

**SECTION 14.6.** The North Carolina Legal Education Assistance Foundation shall report by March 1, 2004, to the Chairs of the House of Representatives and Senate Appropriations Committees and the Chairs of the House of Representatives and Senate Justice and Public Safety Subcommittees on its internal controls and procedures for ensuring that all funds designated for payoff of education loans are used for that

purpose. The Foundation shall report by March 1 of each year to the Joint Legislative Commission on Governmental Operations on the expenditure of State funds, the number of attorneys receiving funds, the average award amount, the average student loan amount, the number of attorneys on the waiting list, and the average number of years for which attorneys receive loan assistance.

#### **RAPE KITS A PRIORITY**

**SECTION 14.7.** The Department shall develop and implement a plan to process rape kits as expeditiously as possible, with a special emphasis on processing kits from cases that have been outstanding for the longest period of time. In developing the plan, the Department shall work with local law enforcement to determine how many untested or unanalyzed rape kits exist and how many rape kits are collected as evidence each year.

#### **COMPUTER CRIMES GRANT FUNDS**

**SECTION 14.8.** On or after July 1, 2004, the Department of Justice may transfer the seven State Bureau of Investigation agents funded in the 2003-2004 fiscal year with federal funds from Computer Crimes grants to agent positions in the State Bureau of Investigation that are (i) vacant, (ii) funded through the General Fund, and (iii) in existence on July 1, 2003.

#### **RAPE KIT ANALYSES BY PRIVATE VENDORS**

**SECTION 14.9.** The Department of Justice shall issue a Request for Information to determine (i) the interest of private vendors in providing analyses of forensic samples of DNA from rape kits in which there is no suspect, (ii) the qualifications of any private vendors who demonstrate such an interest, and (iii) the estimated costs of contracting with private vendors to provide analyses of forensic DNA samples.

### **PART XV. DEPARTMENT OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION**

#### **S.O.S. ADMINISTRATIVE COST LIMITS**

**SECTION 15.1.** Of the funds appropriated to the Department of Juvenile Justice and Delinquency Prevention in this act, not more than four hundred fifty thousand dollars (\$450,000) for the 2003-2004 fiscal year and not more than four hundred fifty thousand dollars (\$450,000) for the 2004-2005 fiscal year may be used to administer the S.O.S. Program, to provide technical assistance to applicants and to local S.O.S. programs, and to evaluate the local S.O.S. programs. The Department may contract with appropriate public or nonprofit agencies to provide the technical assistance, including training and related services.

#### **JUVENILE CRIME PREVENTION COUNCIL GRANT REPORTING AND CERTIFICATION**

**SECTION 15.2.(a)** On or before May 1 each year, the Department of Juvenile Justice and Delinquency Prevention shall submit to the Joint Legislative Commission on Governmental Operations and the Appropriations Committees of the Senate and House of Representatives a list of the recipients of the grants awarded, or preapproved for award, from funds appropriated to the Department for local Juvenile

Crime Prevention Council grants. The list shall include for each recipient the amount of the grant awarded, the membership of the local committee or council administering the award funds on the local level, and a short description of the local services, programs, or projects that will receive funds. The list shall also identify any programs that received grant funds at one time but for which funding has been eliminated by the Department of Juvenile Justice and Delinquency Prevention. A written copy of the list and other information regarding the projects shall also be sent to the Fiscal Research Division of the General Assembly.

**SECTION 15.2.(b)** Each county in which local programs receive Juvenile Crime Prevention Council grant funds from the Department of Juvenile Justice and Delinquency Prevention shall certify annually through its local council to the Department that funds received are not used to duplicate or supplant other programs within the county.

#### **REPORTS ON CERTAIN PROGRAMS**

**SECTION 15.3.(a)** Project Challenge North Carolina, Inc., shall report to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by April 1 each year on the operation and the effectiveness of its program in providing alternative dispositions and services to juveniles who have been adjudicated delinquent or undisciplined. The report shall include information on the source of referrals for juveniles, the types of offenses committed by juveniles participating in the program, the amount of time those juveniles spend in the program, the number of juveniles who successfully complete the program, and the number of juveniles who commit additional offenses after completing the program.

**SECTION 15.3.(b)** The Department of Juvenile Justice and Delinquency Prevention shall report to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety on the effectiveness of the Juvenile Assessment Center by April 1 each year. The report on the Juvenile Assessment Center shall include information on the number of juveniles served and an evaluation of the effectiveness of juvenile assessment plans and services provided as a result of these plans.

**SECTION 15.3.(c)** Communities in Schools shall report to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety, the Joint Legislative Commission on Governmental Operations, the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee, and the Joint Legislative Education Oversight Committee by April 1 each year on the operation and the effectiveness of its program. The report shall include information on the number of children served, the number of volunteers used, the impact on the children who have received services from Communities in Schools, and the operating budget of Communities in Schools.

#### **STATE FUNDS MAY BE USED AS FEDERAL MATCHING FUNDS**

**SECTION 15.4.** Funds appropriated in this act to the Department of Juvenile Justice and Delinquency Prevention for the 2003-2004 fiscal year may be used as matching funds for the Juvenile Accountability Incentive Block Grants. If North Carolina receives Juvenile Accountability Incentive Block Grants, or a notice of funds to be awarded, the Office of State Budget and Management and the Governor's Crime Commission shall consult with the Department of Juvenile Justice and Delinquency Prevention regarding the criteria for awarding federal funds. The Office of State Budget

and Management, the Governor's Crime Commission, and the Department of Juvenile Justice and Delinquency Prevention shall report to the Appropriations Committees of the Senate and House of Representatives and the Joint Legislative Commission on Governmental Operations prior to allocation of the federal funds. The report shall identify the amount of funds to be received for the 2003-2004 fiscal year, the amount of funds anticipated for the 2004-2005 fiscal year, and the allocation of funds by program and purpose.

#### **ANNUAL EVALUATION OF COMMUNITY PROGRAMS**

**SECTION 15.5.** The Department of Juvenile Justice and Delinquency Prevention shall conduct an evaluation of the Eckerd and Camp Woodson wilderness camp programs, the teen court programs, the program that grants funds to the local organizations of the Boys and Girls Clubs established pursuant to Section 21.10 of S.L. 1999-237, the Save Our Students program, the Governor's One-on-One Programs, and multipurpose group homes. The teen court report shall include statistical information on the number of juveniles served, the number and type of offenses considered by teen courts, referral sources for teen courts, and the number of juveniles that become court-involved after participation in teen courts. The report on the Boys and Girls Clubs program shall include information on:

- (1) The expenditure of State appropriations on the program;
- (2) The operations and the effectiveness of the program; and
- (3) The number of juveniles served under the program.

In conducting the evaluation of each of these programs, the Department shall consider whether participation in each program results in a reduction of court involvement among juveniles. The Department shall also identify whether the programs are achieving the goals and objectives of the Juvenile Justice Act, S.L. 1998-202. The Department shall report the results of the evaluation to the Chairs of the House of Representatives and Senate Appropriations Committees and the Chairs of the Subcommittees of Justice and Public Safety of the House of Representatives and Senate Appropriations Committees by March 1 of each year.

#### **USE OF FUNDS FOR YOUTH DEVELOPMENT CENTER BEDS**

**SECTION 15.6.(a)** The Department of Juvenile Justice and Delinquency Prevention may use funds available during the 2003-2004 fiscal year to (i) establish or reestablish youth development center beds, (ii) establish up to 16 new sex offender beds, and (iii) convert up to 50 beds in one Eckerd Wilderness Camp for use as a Youth Development Center, as defined in G.S. 7B-1501. Any conversion shall be effectuated with existing contract funds. If the Department of Juvenile Justice and Delinquency Prevention determines it needs additional youth development center beds during the 2003-2004 fiscal year, it shall consider reestablishing beds at Samarkand Manor Youth Development Center.

**SECTION 15.6.(b)** The Department shall report to the Chairs of the Justice and Public Safety Subcommittees of the House of Representatives and the Senate and the Joint Legislative Commission on Governmental Operations and the Corrections, Crime Control, and Juvenile Justice Oversight Committee prior to:

- (1) Converting any Eckerd Wilderness Camp beds to secure confinement beds during the 2003-2004 fiscal year;

- (2) Establishing bed capacity greater than 740 total beds, including beds converted at Eckerd Wilderness Camps, during the 2003-2004 fiscal year; or
- (3) Establishing new sex offender beds.

The report shall include the sources of funding for any additional beds.

## **PLANNING FOR NEW YOUTH DEVELOPMENT CENTERS**

**SECTION 15.7.(a)** The Department of Juvenile Justice and Delinquency Prevention and the Department of Administration, State Construction Office, shall continue the planning and design of new youth development centers with up to 500 total beds. It is the intent that the design of these facilities ensure improved security, programming, and staffing efficiencies.

The Department of Juvenile Justice and Delinquency Prevention shall provide a quarterly report to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee and to the Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public Safety and the Senate Appropriations Committee on Justice and Public Safety on the status of the planning and design of the new facilities and preliminary planning for site work. The first status report shall address (i) the number of youth development centers to be designed, (ii) the number of beds at each facility, (iii) the rationale for the number of beds to be built at each facility, and (iv) an analysis of all proposed sites for the facilities. The Department shall assess all existing youth development center sites in this analysis and discuss any alternative sites.

At the completion of the predesign and schematic design development phase of the plan for the new youth development centers, or no later than April 15, 2004, the Department shall consult with the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee and with the Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public Safety and the Senate Appropriations Committee on Justice and Public Safety on:

- (1) Whether the plan and design meet the mandate of ensuring effective security and programming while improving staff efficiencies.
- (2) The Department's long-range plan for closing other youth development centers or individual cottages at selected youth development centers or revising the mission or objective of individual youth development centers.
- (3) The anticipated total cost of each youth development center proposed, including the cost per bed and per square foot, as well as the rationale for the proposed projected cost.
- (4) Final site recommendations.

The Department of Administration, State Construction Office, shall assist the Department of Juvenile Justice and Delinquency Prevention with all reports and consultations required by this subsection.

**SECTION 15.7.(b)** Effective July 1, 2003, the Department of Juvenile Justice and Delinquency Prevention shall transfer to the Department of Administration, State Construction Office, the sum of the one million six hundred forty-one thousand five hundred eighty-nine dollars (\$1,641,589), minus the amount paid to the design firm as of June 30, 2003. These funds shall be used for the planning and design of youth development centers.

**OPERATION OF BUNCOMBE YOUTH DETENTION CENTER**

**SECTION 15.8.** The Department of Juvenile Justice and Delinquency Prevention shall continue to operate the Buncombe Youth Detention Center at its current site during the 2003-2004 fiscal year. To the extent practicable during the 2003-2004 fiscal year, the Department shall operate the Buncombe Youth Detention Center at the same average population and staffing levels and at the same budget as the 2002-2003 fiscal year.

**JUVENILE JUSTICE COMPLIANCE WITH AUDIT REPORT**

**SECTION 15.9.** The Department of Juvenile Justice and Delinquency Prevention shall develop and implement a plan to address the findings and recommendations in the performance audit of the youth development centers and juvenile detention centers within the Department of Juvenile Justice and Delinquency Prevention, dated May 2003, by the Office of the State Auditor. The plan shall include proposed changes in organization and management, policies and procedures, and programs in order to address problems identified in the report. The plan shall also identify and document any funding needs for consideration by the 2004 Regular Session of the 2003 General Assembly.

The Department of Juvenile Justice and Delinquency Prevention shall report to the Chairs of the Senate and House of Representatives Appropriations Committees and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on the progress of the development of the plan and initial steps taken to address the issues raised in the audit report by November 1, 2003, and shall report on the final plan by March 1, 2004.

**SAMARKAND TIMBER SALE**

**SECTION 15.10.(a)** The Department of Juvenile Justice and Delinquency Prevention shall harvest and sell a portion of the timber on the real property at Samarkand Youth Academy. Notwithstanding Chapter 146 of the General Statutes, G.S. 66-58, and any other provision of law, the net proceeds derived from the sale of the timber in an amount not to exceed two hundred fifty thousand dollars (\$250,000) shall be deposited with the State Treasurer in a capital improvement and repair and renovation account to the credit of the Department of Juvenile Justice and Delinquency Prevention. The Department shall use the funds for major repair to the streets and parking lots at the Samarkand Youth Academy and for additional street lighting and repairs of buildings at the Academy.

**SECTION 15.10.(b)** The Department of Juvenile Justice and Delinquency Prevention shall report to the Joint Legislative Commission on Governmental Operations by December 1, 2003, on the progress of the harvest and sale of the timber at Samarkand Youth Academy pursuant to subsection (a) of this section.

**SECTION 15.10.(c)** The remainder of the net proceeds from the sale of the timber at Samarkand Youth Academy, if any, shall revert to the General Fund.

**PART XVI. DEPARTMENT OF CORRECTION****FEDERAL GRANT REPORTING**

**SECTION 16.1.** The Department of Correction, the Department of Justice, the Department of Crime Control and Public Safety, the Judicial Department, and the Department of Juvenile Justice and Delinquency Prevention shall report by May 1 of

each year to the Joint Legislative Commission on Governmental Operations, the Chairs of the Senate and House of Representatives Appropriations Committees, and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety on federal grant funds received or preapproved for receipt by those departments. The report shall include information on the amount of grant funds received or preapproved for receipt by each department, the use of the funds, the State match expended to receive the funds, and the period to be covered by each grant. If the department intends to continue the program beyond the end of the grant period, the department shall report on the proposed method for continuing the funding of the program at the end of the grant period. Each department shall also report on any information it may have indicating that the State will be requested to provide future funding for a program presently supported by a local grant.

**REIMBURSE COUNTIES FOR HOUSING AND EXTRAORDINARY MEDICAL COSTS FOR INMATES, PAROLEES, AND POST-RELEASE SUPERVISEES AWAITING TRANSFER TO STATE PRISON SYSTEM**

**SECTION 16.2.** The Department of Correction may use funds available to the Department for the 2003-2005 biennium to pay the sum of forty dollars (\$40.00) per day as reimbursement to counties for the cost of housing convicted inmates, parolees, and post-release supervisees awaiting transfer to the State prison system, as provided in G.S. 148-29. The Department shall report quarterly to the Joint Legislative Commission on Governmental Operations, the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee, the Chairs of the Senate and House of Representatives Appropriations Committees, and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety on the expenditure of funds to reimburse counties for prisoners awaiting transfer and on its progress in reducing the jail backlog.

**SHIFT PAY FOR SECURITY STAFF**

**SECTION 16.3.** The Department of Correction may use funds available for the 2003-2004 fiscal year for the payment to security staff of special supplemental weekend shift premium pay that exceeds standard weekend shift pay by up to ten percent (10%). The Department shall also continue to take steps to hold down the cost of shift pay by converting prisons from three eight-hour shifts to two 12-hour shifts whenever practical.

The Department of Correction shall report to the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by April 1, 2004, on its progress in converting prison work shifts from eight hours to 12 hours. The report shall include information on savings generated to date and potential future savings, as well as any changes in employee morale and leave usage, as a result of converting to 12-hour shifts.

**DEPARTMENT OF CORRECTION SECURITY STAFFING FORMULAS**

**SECTION 16.4.(a)** The Department of Correction shall conduct annual security staffing postaudits of each prison.

**SECTION 16.4.(b)** The Department of Correction shall annually update the security staffing relief formula. Each update shall include a review of all annual training requirements for security staff to determine which of these requirements should be mandatory and the appropriate frequency of the training.



**SECTION 16.4.(c)** The Department of Correction shall report on its progress in implementing the staffing recommendations of the National Institute of Corrections to the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by February 1, 2004. The report shall include a status report on the implementation of a centralized postaudit control system and the automation of leave records.

#### **USE OF CLOSED PRISON FACILITIES**

**SECTION 16.5.** In conjunction with the closing of prison facilities, including small expensive prison units recommended for consolidation by the Government Performance Audit Committee, the Department of Correction shall consult with the county or municipality in which the unit is located, with the elected State and local officials, and with State agencies about the possibility of converting that unit to other use. The Department may also consult with any private for-profit or nonprofit firm about the possibility of converting the unit to other use. In developing a proposal for future use of each unit, the Department shall give priority to converting the unit to other criminal justice use. Consistent with existing law and the future needs of the Department of Correction, the State may provide for the transfer or the lease of any of these units to counties, municipalities, State agencies, or private firms wishing to convert them to other use. The Department of Correction may also consider converting some of the units recommended for closing from one security custody level to another, where that conversion would be cost-effective. A prison unit under lease to a county pursuant to the provisions of this section for use as a jail is exempt for the period of the lease from any of the minimum standards adopted by the Secretary of Health and Human Services pursuant to G.S. 153A-221 for the housing of adult prisoners that would subject the unit to greater standards than those required of a unit of the State prison system.

Prior to any transfer or lease of these units, the Department of Correction shall report on the terms of the proposed transfer or lease to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee. The Department of Correction shall also provide annual summary reports to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on the conversion of these units to other use and on all leases or transfers entered into pursuant to this section.

#### **INMATE COSTS/MEDICAL BUDGET FOR PRESCRIPTION DRUGS AND INMATE CLOTHING AND LAUNDRY SERVICES**

**SECTION 16.6.(a)** If the cost of providing food and health care to inmates housed in the Division of Prisons is anticipated to exceed the continuation budget amounts provided for that purpose in this act, the Department of Correction shall report the reasons for the anticipated cost increase and the source of funds the Department intends to use to cover those additional needs to the Joint Legislative Commission on Governmental Operations, the Chairs of the Senate and House of Representatives Appropriations Committees, and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety.

**SECTION 16.6.(b)** Notwithstanding the provisions of G.S. 143-23(a2), the Department of Correction may use funds available during the 2003-2005 biennium for the purchase of prescription drugs for inmates if expenditures are projected to

exceed the Department's inmate medical continuation budget for prescription drugs. The Department shall consult with the Joint Legislative Commission on Governmental Operations prior to exceeding the continuation budget amount.

**SECTION 16.6.(c)** Notwithstanding the provisions of G.S. 143-23(a2), the Department of Correction may use funds available during the 2003-2004 fiscal year for the purchase of clothing and laundry services for inmates if expenditures are projected to exceed the Department's budget for clothing and laundry services. The Department shall consult with the Joint Legislative Commission on Governmental Operations prior to exceeding the continuation budget amount.

#### **MOBILE MEDICAL OPERATING ROOM**

**SECTION 16.7.** The Department of Correction shall continue the contract for a mobile medical operating room at Central Prison for the 2003-2004 fiscal year at a reduced fixed rate that more clearly reflects the usage. However, the Department shall use the mobile unit for additional procedures, as authorized by the terms of the agreement, whenever the Department's Utilization Review Team determines that (i) a specific procedure can be performed at a cost below that charged by a public or private hospital; and (ii) there is no compelling medical reason for performing the procedure in a hospital instead of using the mobile medical unit.

The Department shall also study the use of this mobile operating room and report by April 1, 2004, to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety. The report shall recommend whether the mobile unit should be continued, eliminated, or expanded in terms of capacity of the current unit and the potential for establishing an additional mobile unit. The report shall also include information on the number and type of procedures performed over and above the fixed-rate contract and the savings generated.

#### **CONVERSION OF CONTRACTED MEDICAL POSITIONS**

**SECTION 16.8.(a)** The Department of Correction may convert contract medical positions to permanent State medical positions at individual correctional facilities if the Department can document that the total savings generated will exceed the total cost of the new positions for each facility. Where practical, the Department shall convert contract positions to permanent positions by using existing vacancies in medical positions.

**SECTION 16.8.(b)** The Department of Correction shall report by April 1, 2004, to the Joint Legislative Commission on Governmental Operations and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety on all conversions made pursuant to this section, by type of position and location, and on the savings generated at each correctional facility.

#### **LIMIT USE OF OPERATIONAL FUNDS**

**SECTION 16.9.** Funds appropriated in this act to the Department of Correction for operational costs for additional facilities shall be used for personnel and operating expenses set forth in the budget approved by the General Assembly in this act. These funds shall not be expended for any other purpose, except as provided for in this act, and shall not be expended for additional prison personnel positions until the new facilities are within 120 days of projected completion, except for certain management, security, and support positions necessary to prepare the facility for opening, as authorized in the budget approved by the General Assembly.

**FEDERAL GRANT MATCHING FUNDS**

**SECTION 16.10.** Notwithstanding the provisions of G.S. 148-2, the Department of Correction may use up to the sum of nine hundred thousand dollars (\$900,000) from funds available to the Department to provide the State match needed in order to receive federal grant funds. Prior to using funds for this purpose, the Department shall report to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Commission on Governmental Operations on the grants to be matched using these funds.

**COMPUTER/DATA PROCESSING SERVICES FUNDS**

**SECTION 16.11.** Notwithstanding the provisions of G.S. 143-23(a2), the Department of Correction may use funds available during the 2003-2005 biennium for expenses for computer/data processing services if expenditures exceed the Department's continuation budget amount for those services. The Department shall report to the Joint Legislative Commission on Governmental Operations prior to exceeding the continuation budget amount.

**MEDIUM CUSTODY ROAD CREW COMPENSATION/COMMUNITY WORK CREWS**

**SECTION 16.12.(a)** Of funds appropriated to the Department of Transportation by this act, the sum of ten million dollars (\$10,000,000) per year shall be transferred by the Department of Transportation to the Department of Correction during the 2003-2005 biennium for the actual costs of highway-related labor performed by medium-custody prisoners, as authorized by G.S. 148-26.5. This transfer shall be made quarterly in the amount of two million five hundred thousand dollars (\$2,500,000). The Department of Transportation may use funds appropriated by this act to pay an additional amount exceeding the ten million dollars (\$10,000,000), but those payments shall be subject to negotiations among the Department of Transportation, the Department of Correction, and the Office of State Budget and Management prior to payment by the Department of Transportation.

**SECTION 16.12.(b)** The Department of Correction may use up to 39 work crews for Department of Transportation litter control projects. The Department of Transportation shall transfer at least one million three hundred thousand dollars (\$1,300,000) per year from the Highway Fund to the Department of Correction during the 2003-2005 biennium to cover the cost of those work crews. Should the two departments determine that the actual cost of operating 39 work crews exceeds that amount, the Department of Transportation shall transfer an additional amount as agreed upon by the two departments and the Office of State Budget and Management.

**ENERGY COMMITTED TO OFFENDERS/CONTRACT AND REPORT**

**SECTION 16.13.** The Department of Correction may continue to contract with Energy Committed To Offenders, Inc., for the purchase of prison beds for minimum security female inmates during the 2003-2005 biennium. Energy Committed To Offenders, Inc., shall report by February 1 of each year to the Joint Legislative Commission on Governmental Operations on the annual cost per inmate and the average daily inmate population compared to bed capacity using the same methodology as that used by the Department of Correction. Energy Committed To Offenders, Inc., shall also

provide information on the rearrest rate and the return-to-prison rate for inmates participating in the program who are paroled or released from prison.

#### **ELECTRONIC MONITORING COSTS**

**SECTION 16.14.** The Department of Correction shall issue a Request for Information to determine the interest and qualifications of private vendors to provide electronic monitoring services for the Department and the estimated costs of outsourcing those services. The Department of Correction shall report by March 1, 2004, to the Chairs of the Senate and House of Representatives Appropriations Committees and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety on the results of the Request for Information and on efforts to increase the use of electronic monitoring of sentenced offenders in the community as an alternative to the incarceration of probation violators. The report shall also document the geographical distribution of electronic monitoring use compared to other intermediate sanctions. The Department shall also analyze the reasons for the underutilization of the electronic monitoring program and include its findings in the report.

#### **COLLECTION OF OFFENDER FEES**

**SECTION 16.15.** The Department of Correction and the Judicial Department shall report by April 1, 2004, to the Chairs of the Senate and House of Representatives Appropriations Committees and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety on the success of their efforts to improve the collection rate of offender fees for probationers and for nonprobationers sentenced to community service and on any recommendations for statutory or procedural changes that will improve the collection of financial obligations from offenders.

The report shall include a comparison of the percentage of offender fees collected in the most recent year compared to prior years, including the percentage of offenders who were ordered to pay fees and the percentage of offenders who actually paid those fees. The report shall also include the total offender fees collected, in dollars and as a percentage of the fees ordered, and the fees that could have been ordered based on the sentence and conditions imposed by the judge. If any of this information cannot be collected, the report shall include a description of the data collection issues and a plan for addressing those issues.

#### **CRIMINAL JUSTICE PARTNERSHIP PROGRAM**

**SECTION 16.16.(a)** It is the intent of the General Assembly that State Criminal Justice Partnership Program funds not be used to fund case manager positions when those services can be reasonably provided by Division of Community Corrections personnel or by the Treatment Alternatives to Street Crime (TASC) Program in the Department of Health and Human Services.

**SECTION 16.16.(b)** Notwithstanding the provisions of G.S. 143B-273.15 specifying that grants to participating counties are for the full fiscal year and that unobligated funds are returned to the State-County Criminal Justice Partnership Account at the end of the grant period, the Department of Correction may reallocate unspent or unclaimed funds distributed to counties participating in the State-County Criminal Justice Partnership Program in an effort to maintain the level of services realized in previous fiscal years.

**SECTION 16.16.(c)** The Department of Correction may not deny funds to a county to support both a residential program and a day reporting center if the Department of Correction determines that the county has a demonstrated need and a fully developed plan for each type of sanction.

**SECTION 16.16.(d)** The Department of Correction shall report by February 1 of each year to the Chairs of the Senate and House of Representatives Appropriations Committees, the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety, and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on the status of the State-County Criminal Justice Partnership Program. The report shall include the following information:

- (1) The amount of funds carried over from the prior fiscal year;
- (2) The dollar amount and purpose of grants awarded to counties as discretionary grants for the current fiscal year;
- (3) Any counties the Department anticipates will submit requests for new implementation grants;
- (4) An update on efforts to ensure that all counties make use of the electronic reporting system, including the number of counties submitting offender participation data via the system;
- (5) An analysis of offender participation data received, including data on each program's utilization and capacity; and
- (6) An analysis of comparable programs, prepared by the Research and Planning Division of the Department of Correction, and a summary of the reports prepared by county Criminal Justice Partnerships Advisory Boards.

#### **REPORTS ON NONPROFIT PROGRAMS**

**SECTION 16.17.(a)** Funds appropriated in this act to the Department of Correction to support the programs of Harriet's House may be used for program operating costs, the purchase of equipment, and the rental of real property. Harriet's House shall report by February 1 of each year to the Joint Legislative Commission on Governmental Operations on the expenditure of State appropriations and on the effectiveness of the program, including information on the number of clients served and the number of clients who successfully complete the Harriet's House program.

**SECTION 16.17.(b)** Summit House shall report by February 1 of each year to the Joint Legislative Commission on Governmental Operations on the expenditure of State appropriations and on the effectiveness of the program, including information on the number of clients served, the number of clients who have had their probation revoked, and the number of clients who successfully complete the program while housed at Summit House, Inc.

**SECTION 16.17.(c)** Women at Risk shall report by February 1 of each year to the Joint Legislative Commission on Governmental Operations on the expenditure of State funds and on the effectiveness of the program, including information on the number of clients served, the number of clients who have had their probation revoked, and the number of clients who have successfully completed the program.

**PROBATION AND PAROLE CASELOADS**

**SECTION 16.18.(a)** The Department of Correction shall report by March 1 of each year to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on caseload averages for probation and parole officers. The report shall include:

- (1) Data on current caseload averages for Probation Parole Officer I, Probation Parole Officer II, and Probation Parole Officer III positions;
- (2) An analysis of the optimal caseloads for these officer classifications; and
- (3) An assessment of the role of surveillance officers.

**SECTION 16.18.(b)** The Department of Correction shall conduct a study of probation/parole officer workload at least biannually, the first such study to be completed during the 2003-2004 fiscal year. The initial study shall be conducted jointly by Department staff and a consultant, external to the Department, and shall include analysis of the type of offenders supervised, the distribution of the probation/parole officers' time by type of activity, the caseload carried by the officers, and comparisons to practices in other states. The study shall be used to determine whether the caseload goals established by the Structured Sentencing Act are still appropriate, based on the nature of the offenders supervised and the time required to supervise those offenders.

**SECTION 16.18.(c)** The Department of Correction shall report the results of the initial study and recommendations for any adjustments to caseload goals to the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by April 1, 2004.

**COMMUNITY SERVICE WORK PROGRAM**

**SECTION 16.19.** The Department of Correction shall report to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by May 1, 2004, on the integration of the Community Service Work Program into the Division of Community Corrections, including the Department's ability to monitor the collection of offender payments from unsupervised offenders sentenced to community service. The Department shall also report to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by May 1, 2004, and by February 1 annually beginning in 2005, on the average caseloads of Community Service Work Program coordinators, by district, division, and statewide. The report shall also include the money collected, the type and value of the work performed, and the number of offenders in the Community Service Work Program, by type of referral (i.e. parole, supervised probation, unsupervised probation or community punishment, DWI, or any other agency referrals).

**REPORT ON INMATES ELIGIBLE FOR PAROLE**

**SECTION 16.20.** The Post-Release Supervision and Parole Commission shall report by January 15 and July 15 of each year to the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on inmates eligible for parole. These reports shall include at least the following:

- (1) The total number of Fair Sentencing and Pre-Fair Sentencing inmates that were parole-eligible during the current fiscal year and the total number of those inmates that were paroled. The report should group these inmates by offense type, custody classification, and type of parole. The report should also include a more specific analysis of those inmates who were parole-eligible and assigned to minimum custody classification but not released;
- (2) The average time served, by offense class, of Fair Sentencing and Pre-Fair Sentencing inmates compared to inmates sentenced under Structured Sentencing; and
- (3) The projected number of parole-eligible inmates to be paroled or released by the end of the 2003-2004 fiscal year and by the end of the 2004-2005 fiscal year.

#### **POST-RELEASE SUPERVISION AND PAROLE COMMISSION/REPORT ON STAFFING REORGANIZATION AND REDUCTION**

**SECTION 16.21.** The Post-Release Supervision and Parole Commission shall report by October 1, 2003, to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety on a plan for restructuring the organization and operation of the Commission and implementing staff reductions to reflect both declines and changes in workload.

#### **HOUSING OF INMATES**

**SECTION 16.22.** The Department of Correction shall develop an operating plan for generating the appropriate mix of close, medium, and minimum custody beds. The plan shall, at a minimum, address the future construction of new beds, including expansion of current prisons, conversion of current prisons from one custody level to another, and the housing of two inmates per cell. The starting point for this plan shall be the Sentencing and Policy Advisory Commission inmate population projections and the Department of Correction's custody population projection model.

The portion of the plan regarding the housing of two inmates per cell shall include a facility-by-facility assessment of the pros and cons of housing inmates in that manner. The Department of Correction shall identify those facilities that would be most conducive to housing two inmates per cell. The Department of Correction should focus its review particularly on the potential to house two inmates per cell at Pamlico, Mountain View, Eastern, Southern, Pasquotank, and Marion. The Department should also review the potential to house two inmates per cell in at least one of any new prisons authorized by the 2003 General Assembly.

The overall operating plan should address budgetary, security, and other operational needs and, in particular, should note how the plan adheres to or deviates from the Department of Correction's custody population projection model.

The Department of Correction shall report by February 1, 2004, to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee, the Chairs of the Senate and House Appropriations Committees, and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety on the plan developed pursuant to this section.

**PART XVII. DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY****TRANSFER CJIN TO THE DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY**

**SECTION 17.1.(a)** G.S. 143-661(a) reads as rewritten:

"(a) The Criminal Justice Information Network Governing Board is established within the Department of ~~Justice, State Bureau of Investigation,~~ Crime Control and Public Safety, to operate the State's Criminal Justice Information Network, the purpose of which shall be to provide the governmental and technical information systems infrastructure necessary for accomplishing State and local governmental public safety and justice functions in the most effective manner by appropriately and efficiently sharing criminal justice and juvenile justice information among law enforcement, judicial, and corrections agencies. The Board is established within the Department of ~~Justice, State Bureau of Investigation,~~ Crime Control and Public Safety, for organizational and budgetary purposes only and the Board shall exercise all of its statutory powers in this Article independent of control by the Department of ~~Justice-Crime Control and Public Safety.~~"

**SECTION 17.1.(b)** G.S. 143-664(b) reads as rewritten:

"(b) Pending permanent staffing, the Department shall provide the Board with professional and clerical staff and any additional support the Board needs to fulfill its mandate. The Board may meet in an area provided by the Department of ~~Justice-Crime Control and Public Safety~~ and the Board's staff shall use space provided by the Department."

**SECTION 17.1.(c)** The Criminal Justice Information Network as provided in Article 69 of Chapter 143 of the General Statutes is hereby transferred by a Type II transfer, as defined in G.S. 143A-6, to the Department of Crime Control and Public Safety.

**THE JUVENILE JUSTICE INFORMATION SYSTEM**

**SECTION 17.2.(a)** G.S. 143B-516(b)(13) reads as rewritten:

"(13) ~~Assist the Criminal Justice Information Network Governing Board with administering~~ Develop and administer a comprehensive juvenile justice information system to collect data and information about delinquent juveniles for the purpose of developing treatment and intervention plans and allowing reliable assessment and evaluation of the effectiveness of rehabilitative and preventive services provided to delinquent juveniles."

**SECTION 17.2.(b)** G.S. 143-663(a)(1) reads as rewritten:

"(1) To establish and operate the Network as an integrated system of State and local government components for effectively and efficiently storing, communicating, and using criminal justice information at the State and local levels throughout North Carolina's law enforcement, judicial, juvenile justice, and corrections agencies, with the components of the Network to include electronic devices, programs, data, and governance and to set the Network's policies and procedures."



**ANNUAL EVALUATION OF THE TARHEEL CHALLENGE PROGRAM**

**SECTION 17.3.** The Department of Crime Control and Public Safety shall report to the Chairs of the House of Representatives and Senate Appropriations Committees and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by April 1 of each year on the operations and effectiveness of the National Guard Tarheel Challenge Program. The report should evaluate the program's effectiveness as an intervention method for preventing juveniles from becoming undisciplined or delinquent. The report shall also evaluate the Program's role in improving individual skills and employment potential for participants and shall include:

- (1) The source of referrals for individuals participating in the Program;
- (2) The summary of types of actions or offenses committed by the participants of the Program;
- (3) An analysis outlining the cost of providing services for each participant, including a breakdown of all expenditures related to the administration and operation of the Program and the education and treatment of the Program participants;
- (4) The number of individuals who successfully complete the Program; and
- (5) The number of participants who commit offenses after completing the Program.

**LEGISLATIVE REVIEW OF DRUG LAW ENFORCEMENT AND OTHER GRANTS**

**SECTION 17.4.(a)** Section 1303(4) of the Omnibus Crime Control and Safe Streets Act of 1968 provides that the State application for Drug Law Enforcement Grants is subject to review by the State legislature or its designated body. Therefore, the Governor's Crime Commission of the Department of Crime Control and Public Safety shall report on the State application for grants under the State and Local Law Enforcement Assistance Act of 1986, Part M of the Omnibus Crime Control and Safe Streets Act of 1968 as enacted by Subtitle K of P.L. 99-570, the Anti-Drug Abuse Act of 1986, to the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety when the General Assembly is in session. When the General Assembly is not in session, the Governor's Crime Commission shall report on the State application to the Joint Legislative Commission on Governmental Operations.

**SECTION 17.4.(b)** Unless a State statute provides a different forum for review, when a federal law or regulation provides that an individual State application for a grant shall be reviewed by the State legislature or its designated body and at the time of the review the General Assembly is not in session, that application shall be reviewed by the Joint Legislative Commission on Governmental Operations.

**VICTIMS ASSISTANCE NETWORK REPORT**

**SECTION 17.5.** The Department of Crime Control and Public Safety shall report on the expenditure of funds allocated pursuant to this section for the Victims Assistance Network. The Department shall also report on the Network's efforts to gather data on crime victims and their needs, act as a clearinghouse for crime victims' services, provide an automated crime victims' bulletin board for subscribers, coordinate and support activities of other crime victims' advocacy groups, identify the training needs of crime victims' services providers and criminal justice personnel, and

coordinate training for these personnel. The Department shall submit its report to the Chairs of the Appropriations Subcommittees on Justice and Public Safety of the Senate and House of Representatives by December 1 of each year of the biennium.

#### **ALE AGENTS SUBJECT TO STATE PERSONNEL ACT**

**SECTION 17.6.** Chapter 126 of the General Statutes, the State Personnel System, applies to all Alcohol Law Enforcement agents of the Department of Crime Control and Public Safety. The Office of State Personnel shall study salary classifications of Alcohol Law Enforcement agents to determine the appropriate classifications and salary ranges for those agents and shall report the results of the study, including any recommendations or legislative proposals, to the Chairs of the Senate and House of Representatives Subcommittees on Justice and Public Safety.

#### **PART XVIII. DEPARTMENT OF ADMINISTRATION**

##### **AGENCIES TO USE MAIL SERVICE CENTER**

**SECTION 18.1.** G.S. 143-341(8)g. reads as rewritten:

**"§ 143-341. Powers and duties of Department.**

The Department of Administration has the following powers and duties:

...  
(8) General Services:

...  
g. To establish and operate a ~~central mailing system~~ mail service center for that shall be used by all State agencies, agencies other than the Employment Security Commission, and in connection therewith and in the discretion of the Secretary, to make application for and procure a post office substation for that purpose, and to do all things necessary in connection with the maintenance of the central mailing system. mail service center. The Secretary ~~may~~ shall allocate and charge against the respective departments and agencies their proportionate parts of the cost of the maintenance of the ~~central mailing system.~~ mail service center. The Secretary shall develop a plan for the efficient operation of the center that meets the needs of State ~~agencies and agencies,~~ ensures timely delivery of ~~mail, and shall present that plan to the Office of State Budget and Management and the General Assembly no later than the convening date of the 2003 General Assembly.~~ mail, and ensures no loss of federal funds."

##### **STUDY OF ADVOCACY PROGRAMS IN THE DEPARTMENT OF ADMINISTRATION**

**SECTION 18.2.** The Secretary of the Department of Administration, in collaboration with appropriate entities which concentrate on public policy and business management, shall study the functions of the advocacy programs that are housed in the Department of Administration to determine the appropriate organizational placement of the programs within State government. The study shall also consider whether the functions of the programs could be more efficiently and effectively performed by an appropriate nonprofit organization. The Secretary shall report the findings and

recommendations to the Joint Legislative Commission on Governmental Operations and to the Chairs of the Senate and House of Representatives Appropriations Committees by May 1, 2004.

## **LOW-INCOME RESIDENTIAL ENERGY PROGRAM**

**SECTION 18.3.** G.S. 113B-6 reads as rewritten:

### **"§ 113B-6. General duties and responsibilities.**

The Energy Policy Council shall have the following general duties and responsibilities:

- (1) To develop and recommend to the Governor a comprehensive long-range State energy policy to achieve maximum effective management and use of present and future sources of energy, such policy to include but not be limited to an energy efficiency program, an energy management plan, an emergency energy program, and an energy research and development program;
- (2) To conduct an ongoing assessment of the opportunities and constraints presented by various uses of all forms of energy and to encourage the efficient use of all such energy forms in a manner consistent with State energy policy;
- (3) To continually review and coordinate all State government research, education and management programs relating to energy matters and to continually educate and inform the general public regarding such energy matters;
- (4) To recommend to the Governor and to the General Assembly needed energy legislation and to recommend for implementation such modifications of energy policy, plans and programs as the Council considers necessary and desirable.
- (5) To develop and administer the Low-Income Residential Energy Program. Nothing in this subdivision shall be construed as obligating the General Assembly to appropriate funds for the Program or as entitling any person to services under the Program."

## **PETROLEUM OVERCHARGE FUNDS ALLOCATION**

**SECTION 18.4.(a)** There is appropriated from funds and interest thereon received from the case of United States v. Exxon that remain in the Special Reserve for Oil Overcharge Funds to the Department of Administration the sum of one million dollars (\$1,000,000) for the 2003-2004 fiscal year to be allocated for the Low Income Residential Energy Program.

**SECTION 18.4.(b)** Any funds remaining in the Special Reserve for Oil Overcharge Funds after the allocation is made pursuant to subsection (a) of this section may be expended only as authorized by the General Assembly and upon recommendations of the State Energy Policy Council. All interest or income accruing from all deposits or investments of cash balances shall be credited to the Special Reserve for Oil Overcharge Funds.

## **VETERANS SCHOLARSHIPS PARTIALLY FUNDED FROM ESCHEAT FUND**

**SECTION 18.5.(a)** G.S. 165-22.1(b) reads as rewritten:

"(b) Funds for the support of this program shall be appropriated to the Department of Administration as a reserve for payment of the allocable costs for room, board, tuition, and other charges, and shall be placed in a separate budget code from which disbursements shall be made. Funds to support the program shall be supported by receipts from the Escheat Fund, as provided by G.S. 116B-7, but those funds may be used only for worthy and needy residents of this State who are enrolled in public institutions of higher education of this State. In the event the said appropriation for any year is insufficient to pay the full amounts allocable under the provisions of this Article, such supplemental sums as may be necessary shall be allocated from the Contingency and Emergency Fund. The method of disbursing and accounting for funds allocated for payments under the provisions of this section shall be in accordance with those standards and procedures prescribed by the Director of the Budget, pursuant to the Executive Budget Act."

**SECTION 18.5.(b)** G.S. 116B-7 reads as rewritten:

"§ **116B-7. Distribution of ~~income~~ of fund.**

(a) The income derived from the investment or deposit of the Escheat Fund shall be distributed annually on or before July 15 to the State Education Assistance Authority for grants and loans to aid worthy and needy students who are residents of this State and are enrolled in public institutions of higher education in this State. Such grants and loans shall be made upon terms, consistent with the provisions of this Chapter, pursuant to which the State Education Assistance Authority makes grants and loans to other students under G.S. 116-201 to 116-209.23, Article 23 of Chapter 116 of the General Statutes, policies of the Board of Governors of The University of North Carolina regarding need-based grants for students of The University of North Carolina, and policies of the State Board of Community Colleges regarding need-based grants for students of the community colleges.

(b) An amount specified in the Current Operations Appropriations Act shall be transferred annually from the Escheat Fund to the Department of Administration to partially fund the program of Scholarships for Children of War Veterans established by Article 4 of Chapter 165 of the General Statutes. Those funds may be used only for residents of this State who (i) are worthy and needy as determined by the Department of Administration, and (ii) are enrolled in public institutions of higher education of this State."

**SECTION 18.5.(c)** In accordance with G.S. 116B-7(b) as enacted by this act, for the 2003-2004 and 2004-2005 fiscal years, there is appropriated from the Escheat Fund to the Department of Administration the amount of three million seven hundred twenty-eight thousand three hundred twenty-four dollars (\$3,728,324) for each year.

## **SELL SURPLUS/CONFISCATED PROPERTY ELECTRONICALLY**

**SECTION 18.6.(a)** G.S. 143-64.03 is amended by adding the following new subsection to read:

"(d) The State agency for surplus property may sell or otherwise dispose of surplus property, including motor vehicles, through an electronic auction service."

**SECTION 18.6.(b)** Article 3A of Chapter 143 of the General Statutes is amended by adding a new Part to read:

"Part 3. Public Agencies.**"§ 143-64.6. Disposal of surplus property.**

A county, municipality, or other public body may sell or otherwise dispose of surplus property, including motor vehicles, through an electronic auction service."

**SECTION 18.6.(c)** Article 2 of Chapter 15 of the General Statutes is amended by adding a new section to read:

**"§ 15-14.1. Sale of property through electronic auction.**

In addition to selling property as authorized in G.S. 15-13, a sheriff or police department may sell property in his or its possession through an electronic auction service. The sheriff or police department shall comply with the publication and notice requirements provided in G.S. 15-12 through G.S. 15-14 prior to any sale under this section."

**PART XIX. OFFICE OF THE STATE AUDITOR****SMART START AUDITS**

**SECTION 19.1.** G.S. 143B-168.14(b) reads as rewritten:

"(b) Each local partnership shall be subject to audit and review by the State Auditor under Article 5A of Chapter 147 of the General Statutes. The State Auditor shall conduct annual financial and compliance audits of ~~the~~ local partnerships-partnerships that are rated "needs improvement" in performance assessments authorized in G.S. 143B-168.12(a)(7). Local partnerships that are rated "superior" or "satisfactory" in performance assessments authorized in G.S. 143B-168.12(a)(7) shall undergo biennial financial and compliance audits by the State Auditor."

**PART XIX-B. GENERAL ASSEMBLY****LEGISLATIVE FOOD SERVICE DONATE FOOD**

**SECTION 19B.1.** The General Assembly food service shall on a daily basis donate to a nonprofit organization food that would otherwise be discarded.

**GENERAL ASSEMBLY/USE AND MAINTENANCE OF BUILDINGS AND GROUNDS**

**SECTION 19B.2.** G.S. 120-32.1(d)(1)b. reads as rewritten:

"(d) For the purposes of this section, the term "State legislative buildings and grounds" means:

(1) At all times:

...

b. The Legislative Office Building, its garden area and outer stairway, and the areas between its outer walls and the near curbline of those sections of Lane and Salisbury Streets that border the land on which it is situated; which shall include the following areas:

1. The garden area and outer stairway;
2. The loading dock area bounded by the wall on the east abutting the State Government Mall, the southern edge of the southernmost exit lane on Salisbury Street for the parking deck, and the Salisbury Street sidewalk;

3. The area between its outer wall and the near curbline of that section of Lane Street that borders the land on which it is situated; and
4. The area bounded by its western outer wall, the extension of a line along its northern outer wall to the middle of Salisbury Street, following the middle line of Salisbury Street to the nearest point of the intersection of Lane and Salisbury Streets, and thence east to the near curbline of the Legislative Office Building at its southwestern corner;".

## **PART XX. OFFICE OF THE GOVERNOR**

### **HOUSING FINANCE AGENCY HOME MATCHING FUNDS**

**SECTION 20.1.(a)** Funds appropriated in this act to the Housing Finance Agency for the federal HOME Program shall be used to match federal funds appropriated for the HOME Program. In allocating State funds appropriated to match federal HOME Program funds, the Agency shall give priority to HOME Program projects, as follows:

- (1) First priority to projects that are located in counties designated as Tier One, Tier Two, or Tier Three Enterprise Counties under G.S. 105-129.3; and
- (2) Second priority to projects that benefit persons and families whose incomes are fifty percent (50%) or less of the median family income for the local area, with adjustments for family size, according to the latest figures available from the United States Department of Housing and Urban Development.

The Housing Finance Agency shall report to the Joint Legislative Commission on Governmental Operations by April 1 of each year concerning the status of the HOME Program and shall include in the report information on priorities met, types of activities funded, and types of activities not funded.

**SECTION 20.1.(b)** If the United States Congress changes the HOME Program such that matching funds are not required for a given program year, then the Agency shall not spend the matching funds appropriated under this act for that program year.

**SECTION 20.1.(c)** Funds appropriated in this act to match federal HOME Program funds shall not revert to the General Fund on June 30, 2004, or on June 30, 2005.

## **PART XXI. INFORMATION TECHNOLOGY**

### **ITS BUDGET STRUCTURE REVIEW/REPORT**

**SECTION 21.1.** The Office of State Budget and Management (OSBM) shall conduct a study of information technology (IT) expenditures across all of State government, with focused attention to identification and elimination of duplicative IT expenditures, operations, and inventory, to identify and recommend potential cost savings and efficiencies in State agency IT operations. In this study, OSBM should address the following questions:

- (1) Is State government's IT budgeting and organizational structure the most efficient approach?
- (2) What alternative IT budgeting and organizational structures could help North Carolina realize cost savings?

OSBM shall work in conjunction with the Office of Information Technology Services (ITS) and the Information Resources Management Commission (IRMC) to study the ITS and the IRMC budget structures. As part of this study, OSBM shall prepare at least three alternative budget transition plans for ITS and IRMC. Two of the transition plans shall, at a minimum, address the feasibility of (i) making portions or all of the ITS and the IRMC budgets General Fund appropriations and including a proposal for how a nontax revenue source to reimburse the General Fund for appropriations could be made from agency receipts for ITS services utilized and (ii) maintaining the ITS and the IRMC budgets as Internal Service Funds, but having the budgets approved by the Office of State Budget and Management and the General Assembly instead of being approved by IRMC as they are currently. By April 1, 2004, OSBM shall make reports on these matters to the Joint Legislative Commission on Governmental Operations, the Chairs of the Joint Appropriations Subcommittee on General Government, and the Fiscal Research Division.

### **ITS MAINTENANCE AGREEMENT PILOT PROJECT**

**SECTION 21.2.(a)** Notwithstanding the cash management provisions of G.S. 146-86.11, the State Controller may authorize the Office of Information Technology Services (ITS) to purchase not more than four infrastructure maintenance agreements for periods not exceeding two years where the terms of those maintenance agreements require payment of the full purchase price at the beginning of the maintenance period. The State Controller shall not authorize the agreements authorized by this section unless all of the following conditions are met:

- (1) The proposed infrastructure maintenance agreement is entered into after June 30, 2003, and before July 1, 2004.
- (2) The State Controller receives conclusive evidence that the proposed infrastructure agreement would be more cost-effective than any similar agreement that complies with G.S. 146-86.11.
- (3) The State Controller verifies that the savings resulting from the proposed infrastructure agreement will be passed on to network users in the form of lower rates for ITS services.
- (4) The purchase of the proposed maintenance agreement complies in all other respects with applicable statutes and rules.
- (5) ITS shall make adjustments of excess revenue, based on IRMC-approved rates, over allowable costs. ITS shall refund the excess to ITS' State and local government customers in the same manner as is required by the federal government in the Office of Management and Budget Circular A-87.

**SECTION 21.2.(b)** The State Controller shall provide full justification for any authorizations granted under this section to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division of the General Assembly within 60 days after the authorization is granted.

**PART XXII. DEPARTMENT OF INSURANCE****INSURANCE FUND TRANSFER TO GENERAL FUND**

**SECTION 22.1.** The Commissioner of Insurance shall transfer funds quarterly from the Department of Insurance Fund to the General Fund to repay the funds appropriated to the Department of Insurance from the General Fund for each fiscal year, plus accrued interest at a rate determined by the State Treasurer.

**EXTEND THE SUNSET FOR FUNDING CERTAIN OPERATIONS OF THE DEPARTMENT OF INSURANCE THROUGH THE INSURANCE REGULATORY FUND**

**SECTION 22.2.** Section 12 of S.L. 2002-144 reads as rewritten:

"**SECTION 12.** This act becomes effective July 1, 2002. Sections 1 through 8 of this act expire ~~June 30, 2003~~. June 30, 2004."

**PART XXIII. DEPARTMENT OF REVENUE****DOR TAXPAYER TELECOMMUNICATIONS SERVICE**

**SECTION 23.1.** Section 22.6 of S.L. 2002-126 reads as rewritten:

"**SECTION 22.6.(a)** ~~The Department of Revenue may draw up to seven million eight hundred forty thousand five hundred thirteen dollars (\$7,840,513) through June 30, 2004.~~ There is appropriated from the collection assistance fee account created in G.S. 105-243.1 to the Department of Revenue the sum of one million six hundred twenty-two thousand eight hundred ninety-six dollars (\$1,622,896) for the 2003-2004 fiscal year and the sum of two million one hundred fifty-four thousand five hundred ninety-three dollars (\$2,154,593) for the 2004-2005 fiscal year in order to pay for the costs of establishing and equipping a central taxpayer telecommunications service center for collections and assistance and for the costs associated with aligning local field offices with the new center.

~~"**SECTION 22.6.(b)** The Secretary of Revenue shall consult with the Joint Legislative Commission on Governmental Operations on a detailed plan with proposed costs before any funds may be expended for these purposes. This plan must be presented by October 31, 2002.~~

"**SECTION 22.6.(c)** Beginning January 1, 2003, and ending on the second quarter following completion of the projects described in subsection (a) of this section, the Department of Revenue must report quarterly to the Joint Legislative Commission on Governmental Operations on the use of the funds and the progress of establishing the new center."

**CERTAIN DOR POSITIONS FEE-SUPPORTED**

**SECTION 23.2.** There is appropriated from the collection assistance fee account created in G.S. 105-243.1 to the Department of Revenue the sum of five hundred thirty-one thousand five hundred twelve dollars (\$531,512) for the 2003-2004 fiscal year and the sum of five hundred thirty-one thousand five hundred twelve dollars (\$531,512) for the 2004-2005 fiscal year for salary and related fringe benefits for the following positions formerly supported from the General Fund:

Position No. 4784-0000-0076-621 - Revenue Officer II

Position No. 4784-0000-0076-622 - Revenue Officer II



Position No. 4784-0000-0076-636 - Revenue Officer I  
Position No. 4784-0000-0076-637 - Revenue Officer I  
Position No. 4784-0000-0076-638 - Revenue Officer I  
Position No. 4784-0000-0076-639 - Revenue Officer I  
Position No. 4784-0000-0076-640 - Revenue Officer I  
Position No. 4784-0000-0076-641 - Revenue Officer I  
Position No. 4784-0000-0076-642 - Revenue Officer I  
Position No. 4784-0000-0076-643 - Revenue Officer I  
Position No. 4784-0000-0076-644 - Revenue Officer I  
Position No. 4784-0000-0076-645 - Revenue Officer I  
Position No. 4784-0000-0076-647 - Revenue Officer I

#### **DOR TAXPAYER CALL CENTER FUND CODE**

**SECTION 23.3.** Funds appropriated to the Department of Revenue for a central taxpayer telecommunications service center for collections and assistance shall be transferred to a separate, receipts-supported Fund Code in the Department's budget. The Fund Code number is 1662.

#### **DOR REPORT ON PROJECT COMPLIANCE**

**SECTION 23.4.** The Department of Revenue must report to the Joint Legislative Commission on Governmental Operations and to the Revenue Laws Study Committee on its efforts to address abuse of the voluntary tax compliance system, including fraudulent activity, which has resulted in undercollections. Reports must be submitted quarterly beginning February 1, 2004, through July 30, 2006. Each report must include a breakdown of the Department's additional initiatives resulting directly from the Project Compliance funding provided for the 2003-2005 fiscal biennium. The report must itemize additional collections by type of tax as compared to an objectively determined baseline of collections resulting from preexisting collection activities. Each report must also include a long-term plan, a time line for implementing each step of the plan, a summary of steps taken since the last report and their results, and any other data requested by the Commission or the Committee.

#### **PART XXIV. SECRETARY OF STATE**

##### **TRANSFER CONSULTATION REQUIREMENT UNDER BUSINESS LICENSE INFORMATION OFFICE TO SMALL BUSINESS CENTERS**

**SECTION 24.1.(a)** The Department of the Secretary of State (Department) and the North Carolina Community College System (System) shall develop and implement a plan to transfer the consultation function of the Business License Information Office (BLIO) in the Department to the Small Business Centers that are located within each of the community colleges in the System. The plan shall provide for the following:

- (1) Establishment of a Statewide Coordinator position who will develop and maintain a web-based master application system of all State licensing and regulatory requirements.
- (2) Development and ongoing maintenance of a web-based master application system of all State licensing and regulatory requirements.

- (3) Training for the Directors of the Small Business Centers.
- (4) Phase-out of the BLIO consultant positions.

**SECTION 24.1.(b)** The Department shall use funds appropriated for the 2003-2004 fiscal year for the Business License Information Office (Fund 1240) in Budget Code 13200 to develop the web-based master application and for training.

**SECTION 24.1.(c)** The Department and the System shall present their plan to the Joint Legislative Commission on Governmental Operations and to the Chairs of the Appropriations Committees of the Senate and the House of Representatives by October 1, 2003. After presenting the plan, the Department and the System shall report on the implementation of the plan to the Joint Legislative Commission on Governmental Operations and to the Chairs of the Appropriations Committees of the Senate and the House of Representatives on a quarterly basis. The plan shall be fully implemented by June 30, 2004.

## **REPORT ON DISTRIBUTION AND SALE OF THE NORTH CAROLINA MANUAL**

**SECTION 24.2.** The Department of the Secretary of State shall report on the distribution and sale of the North Carolina Manual as provided in G.S. 147-54. The report shall include: (i) the number of copies that were distributed and the agencies and institutions to which they were distributed; (ii) the cost of distributing the manual; (iii) the number of copies that were sold and whether they were purchased by the general public, agencies, or institutions; and (iv) the amount of revenue realized from the sale of the manual.

The Department shall also study and report on the feasibility of making the manual available via the Internet.

The Department shall submit its report to the Appropriations Subcommittees on General Government of the Senate and House of Representatives and to the Fiscal Research Division by April 1, 2004.

## **PART XXV. STATE BOARD OF ELECTIONS**

### **HELP AMERICA VOTE ACT MATCHING FUNDS**

**SECTION 25.1.(a)** Of the funds appropriated to the State Board of Elections for the 2003-2004 fiscal year by Section 2.1 of this act:

- (1) The sum of \$1,791,936 is transferred to a Reserve Fund to meet the Maintenance of Effort requirements of section 254(a)(7) of the Help America Vote Act, Public Law 107-252.
- (2) The sum of \$1,665,650 currently appropriated to Fund 1100 Administration for the SEIMS RCC is transferred to a Reserve Fund for the State Board of Elections.
- (3) The sum of \$1,922,215 is transferred in the 2003-2004 fiscal year to the Election Fund established by S.L. 2003-12 to meet the five percent (5%) matching requirement of Title II Help America Vote Act, Public Law 107-252 for the 2003-2005 fiscal biennium. Of that amount, \$1,188,760 shall be available for expenditure in the 2003-2004 fiscal year, and the remaining \$733,455 shall be available for expenditure only during the 2004-2005 fiscal year. The money shall only be

expended as federal funds are available to match, and if the amount available to the State is less than projected, the unexpended remainder of the \$1,922,215 shall revert to the General Fund on the earlier of:

- a. June 30, 2006; or
- b. A determination by the Office of State Budget and Management that the unexpended remainder will not be needed.

**SECTION 25.1.(b)** The 107th Congress established the Help America Vote Act (HAVA) as Public Law 107-252 establishing a program to assist in the administration of federal elections and provide assistance with the administration of certain federal elections laws and programs; establish minimum election administration standards for states and units of local government with the responsibility for the administration of federal elections. In HAVA, Congress authorized appropriations for elections assistance in the form of a matching grant program (Title II of HAVA, Requirements Payments) for which states are required as one condition of the Election Assistance Requirements Payments to match federal allocations with a five percent (5%) match of State dollars. The federal government has additional requirements, including a required state plan and a stipulation for each participating state to implement the Maintenance of Effort (MOE) requirements of Title II, section 254(a)(7) of HAVA. The MOE requires that the state maintain the expenditures of the state for activities funded by the payment at a level that is not less than the level of such expenditures maintained by the state for the fiscal year ending prior to November 2000. Congress authorized up to \$1.4 billion for Requirements Payments, and \$810 million for Title II requirements grants was funded for fiscal year 2003. Title II requirements funding has not been passed by Congress for fiscal years 2004-2005 and 2005-2006 but is currently proposed at \$500 million for each year.

Based upon the 2003 approved funding, it is estimated that North Carolina will receive \$22.6 million of the Title II funding if North Carolina meets all the conditions of the Election Assistance program, including not only the five percent (5%) state match but also maintenance of its expenditure level on HAVA activities at the expense level the State Board of Elections had in State fiscal year 1999-2000. Actual expenditures for the State Elections Information Management System (SEIMS), which is a qualified HAVA activity, in 1999-2000 were three million four hundred fifty-seven thousand five hundred eighty-five dollars and six cents (\$3,457,585.06). The authorized expenditures on SEIMS in 2002-2003 by the State Board of Elections is one million six hundred sixty-five thousand six hundred fifty dollars (\$1,665,650). The difference in expenditure levels is one million seven hundred ninety-one thousand nine hundred thirty-five dollars and six cents (\$1,791,935.06). To meet HAVA's Title II MOE requirement, North Carolina has to appropriate from its General Fund to a Reserve on a recurring basis (or for as long as Congress requires the MOE as a condition of states' being eligible to receive Requirements Payments), the amount of three million four hundred fifty-seven thousand five hundred eighty-five dollars and six cents (\$3,457,585.06) annually.

For the State to meet its obligatory five percent (5%) match for HAVA's Title II Requirements Payments, North Carolina has to match twenty-two million six hundred thousand dollars (\$22,600,000) estimated federal funds in 2003-2004; thirteen million nine hundred forty-four thousand dollars (\$13,944,000) estimated federal funds in

2004-2005. The State's match is one million one hundred eighty-eight thousand seven hundred sixty dollars (\$1,188,760) in 2003-2004 and seven hundred thirty-three thousand four hundred fifty-five dollars (\$733,455) in 2004-2005. The nonrecurring match total required for the 2003-2005 fiscal biennium from the General Fund is one million nine hundred twenty-two thousand two hundred fifteen dollars (\$1,922,215).

## **PART XXVI. OFFICE OF STATE BUDGET AND MANAGEMENT**

### **NC HUMANITIES COUNCIL**

**SECTION 26.1.** The North Carolina Humanities Council shall:

- (1) By January 15, 2004, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
  - a. State fiscal year 2002-2003 program activities, objectives, and accomplishments;
  - b. State fiscal year 2002-2003 itemized expenditures and fund sources;
  - c. State fiscal year 2003-2004 planned activities, objectives, and accomplishments including actual results through December 31, 2003; and
  - d. State fiscal year 2003-2004 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 2003.
- (2) Provide to the Fiscal Research Division a copy of the organization's annual audited financial statement within 30 days of issuance of the statement.

## **PART XXVII. OFFICE OF THE STATE CONTROLLER**

### **OVERPAYMENTS AUDIT**

**SECTION 27.1.(a)** During the 2003-2004 fiscal year, receipts generated by the collection of inadvertent overpayments by State agencies to vendors as a result of pricing errors, neglected rebates and discounts, miscalculated freight charges, unclaimed refunds, erroneously paid excise taxes, and related errors as required by G.S. 147-86.22(c) are to be deposited in the Special Reserve Account 24172.

**SECTION 27.1.(b)** For the 2003-2004 fiscal year, two hundred thousand dollars (\$200,000) of the funds transferred from the Special Reserve Account 24172 shall be used by the Office of the State Controller for data processing, debt collection, or e-commerce costs.

**SECTION 27.1.(c)** All funds available in the Special Reserve Account 24172 on July 1, 2003, are transferred to the General Fund on that date.

**SECTION 27.1.(d)** Any unobligated funds in the Special Reserve Account 24172 that are realized above the allowance in subsection (b) of this section are subject to appropriation by the General Assembly in the 2004 Regular Session of the 2003 General Assembly.

**SECTION 27.1.(e)** The State Controller shall report quarterly to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on the revenue deposited into the Special Reserve Account and the disbursement of that revenue.

**PART XXVIII. DEPARTMENT OF THE STATE TREASURER****STATE TREASURER SUBJECT TO EXECUTIVE BUDGET ACT**

**SECTION 28.2.(a)** G.S. 147-68(e) reads as rewritten:

"(e) The State Treasurer-Treasurer, in carrying out the responsibilities of this section, shall except as provided in G.S. 143-25 be independent of any fiscal control exercise by the Director of the Budget or the Department of Administration and shall be responsible to the Advisory Budget Commission, the General Assembly and the people of North Carolina for the efficient and faithful exercise of the responsibilities of his office. The State Treasurer, for all other purposes, is subject to Article 1 of Chapter 143 of the General Statutes."

**SECTION 28.2.(b)** Subsection (a) of this section becomes effective July 1, 2003.

**REPORT OF THE STATUS OF THE TECHNOLOGY INFRASTRUCTURE ENHANCEMENTS**

**SECTION 28.3.** The Department of State Treasurer shall report to the Joint Legislative Commission on Governmental Operations and to the Chairs of the Appropriations Committees for the Senate and the House of Representatives on the status of the replacement of the multitude of information technology systems with an integrated system for all the retirement plans and other programs administered by the Retirement Systems Division. The Department shall report semiannually by October 1 and April 1 until the enhancements are fully implemented.

**STAFFING ANALYSIS FOLLOW-UP**

**SECTION 28.4.(a)** The Office of State Budget and Management shall conduct semiannual follow-up analyses to the Staffing Analysis that was completed in April 2003 on the Retirement Systems Division within the Department of State Treasurer by October 1 and April 1 of each year to assure that the staffing levels remain appropriate. The semiannual analyses shall be conducted throughout the implementation of the enhancements to the information technology infrastructure within the Retirement Systems Division that were authorized by this act. The follow-up analyses shall also continue for a reasonable time after the completion of the enhancements to ensure that the staffing levels are adjusted based on the increased efficiency provided by the enhancements.

**SECTION 28.4.(b)** The Retirement Systems Division shall maintain monthly workload statistics and productivity data for the various functions within the Division. The Department of State Treasurer shall report the workload statistics and productivity data to the Fiscal Research Division and to the Office of State Budget and Management on a quarterly basis.

**AUTHORIZATION FOR TEMPORARY AND CONTRACTUAL SERVICES FOR UNCLAIMED PROPERTY PROGRAM**

**SECTION 28.5.** The Department of State Treasurer may use up to one hundred seventy-six thousand dollars (\$176,000) in additional receipts from the Escheats Fund for fiscal year 2003-2004 for contractual services for temporary

personnel to process the increased volume of applications for return of money and real property and for securing data entry services necessary to keep current the information that the Department makes available to the public on unclaimed money and real property. Of this amount, up to one hundred twenty-six thousand dollars (\$126,000) may be used to employ six temporary workers through a temporary service to process claims. The remaining fifty thousand dollars (\$50,000) may be used for miscellaneous contractual services to assist with data entry. The Department shall consult with the Joint Legislative Commission on Governmental Operations prior to incurring any expenditure of the additional receipts.

## **PART XXIX. DEPARTMENT OF TRANSPORTATION**

### **CASH-FLOW HIGHWAY FUND AND HIGHWAY TRUST FUND APPROPRIATIONS**

**SECTION 29.1.(a)** The General Assembly authorizes and certifies anticipated revenues of the Highway Fund as follows:

For Fiscal Year 2005-2006	\$1,409.2 million
For Fiscal Year 2006-2007	\$1,458.9 million
For Fiscal Year 2007-2008	\$1,509.4 million
For Fiscal Year 2008-2009	\$1,558.8 million

**SECTION 29.1.(b)** The General Assembly authorizes and certifies anticipated revenues of the Highway Trust Fund as follows:

For Fiscal Year 2005-2006	\$1,096.3 million
For Fiscal Year 2006-2007	\$1,148.0 million
For Fiscal Year 2007-2008	\$1,202.6 million
For Fiscal Year 2008-2009	\$1,252.4 million

### **SMALL URBAN CONTINGENCY FUNDS**

**SECTION 29.2.** Of the funds appropriated in this act to the Department of Transportation:

- (1) Twenty-eight million dollars (\$28,000,000) shall be allocated in each fiscal year for small urban construction projects. These funds shall be allocated equally in each fiscal year of the biennium among the 14 Highway Divisions for the small urban construction program for small construction projects that are located within the area covered by a two-mile radius of the municipal corporate limits.
- (2) Fifteen million dollars (\$15,000,000) in fiscal year 2003-2004 and ten million dollars (\$10,000,000) in fiscal year 2004-2005 shall be used statewide for rural or small urban highway improvements and related transportation enhancements to public roads and public facilities, industrial access roads, and spot safety projects as approved by the Secretary of Transportation.

None of these funds used for rural secondary road construction are subject to the county allocation formulas in G.S. 136-44.5(b) and (c).

These funds are not subject to G.S. 136-44.7.

The Department of Transportation shall report to the members of the General Assembly on projects funded pursuant to this section in each member's district prior to the Board of Transportation's action. The Department shall make a quarterly comprehensive report on the use of these funds to the Joint Legislative Transportation Oversight Committee and the Fiscal Research Division.

## **DEPARTMENT OF TRANSPORTATION PRODUCTIVITY PILOT PROGRAMS**

**SECTION 29.3.** The Department of Transportation may establish two pilot programs to test incentive pay for employees as a means for increasing efficiency and productivity.

One of the pilot programs shall involve the highway resurfacing program using road oil. Up to one-fourth of one percent (0.25%) of the budget allocation for this program may be used to provide employee incentive payments.

The other pilot project may be selected by the Department of Transportation, and up to twenty-five thousand dollars (\$25,000) may be used from existing budgets for incentives.

Incentive payments shall be based on quantifiable measures and production schedules determined prior to the implementation of the pilot programs that shall last no more than two years.

The Department of Transportation shall report to the Joint Legislative Transportation Oversight Committee on the pilot programs at least 30 days prior to their implementation.

## **REDUCE HIGHWAY TRUST FUND ADMINISTRATION ALLOCATION**

**SECTION 29.4.** G.S. 136-176(b) reads as rewritten:

"(b) Funds in the Trust Fund are annually appropriated to the Department of Transportation to be allocated and used as provided in this subsection. A sum, not to exceed ~~four and one-half percent (4.5%)~~ four percent (4%) of the amount of revenue deposited in the Trust Fund under subdivisions (a)(1), (2), and (3) of this ~~section,~~ section for the 2003-2004 fiscal year and three and eight-tenths percent (3.8%) thereafter, may be used each fiscal year by the Department for expenses to administer the Trust Fund. Operation and project development costs of the North Carolina Turnpike Authority are eligible administrative expenses under this subsection. Any funds allocated to the Authority pursuant to this subsection shall be repaid by the Authority from its toll revenue as soon as possible, subject to any restrictions included in the agreements entered into by the Authority in connection with the issuance of the Authority's revenue bonds. Beginning one year after the Authority begins collecting tolls on a completed Turnpike Project, interest shall accrue on any unpaid balance owed to the Highway Trust Fund at a rate equal to the State Treasurer's average annual yield on its investment of Highway Trust Fund funds pursuant to G.S. 147-6.1. Interest earned on the unpaid balance shall be deposited in the Highway Trust Fund upon repayment. The rest of the funds in the Trust Fund shall be allocated and used as follows:

- (1) Sixty-one and ninety-five hundredths percent (61.95%) to plan, design, and construct the projects of the Intrastate System described in G.S. 136-179 and to pay debt service on highway bonds and notes that are issued under the State Highway Bond Act of 1996 and whose proceeds are applied to these projects.

- (2) Twenty-five and five hundredths percent (25.05%) to plan, design, and construct the urban loops described in G.S. 136-180 and to pay debt service on highway bonds and notes that are issued under the State Highway Bond Act of 1996 and whose proceeds are applied to these urban loops.
- (3) Six and one-half percent (6.5%) to supplement the appropriation to cities for city streets under G.S. 136-181.
- (4) Six and one-half percent (6.5%) for secondary road construction as provided in G.S. 136-182 and to pay debt service on highway bonds and notes that are issued under the State Highway Bond Act of 1996 and whose proceeds are applied to secondary road construction.

The Department must administer funds allocated under subdivisions (1), (2), and (4) of this subsection in a manner that ensures that sufficient funds are available to make the debt service payments on bonds issued under the State Highway Bond Act of 1996 as they become due."

#### **USE OF EXCESS OVERWEIGHT/OVERSIZE FUNDS**

**SECTION 29.5.** Funds generated by overweight/oversize permit fees in excess of the cost of administering the program, as determined pursuant to G.S. 20-119(e), shall be used for highway and bridge maintenance required as a result of damages caused from overweight/oversize loads.

#### **ENVIRONMENTAL PERMITS ON DEPARTMENT OF TRANSPORTATION CONSTRUCTION PROJECTS**

**SECTION 29.6.** Chapter 136 of the General Statutes is amended by adding a new section to read:

**"§ 136-44.7B. Permit issuance by Department of Environment and Natural Resources transportation construction projects.**

Once the Department of Environment and Natural Resources or any agency within the Department of Environment and Natural Resources has issued a permit that is required for a transportation construction project to be undertaken by or on behalf of the Department of Transportation pursuant to the Transportation Improvement Program, that permit shall remain in effect until the project is completed. The permit shall not expire and shall not be modified or canceled for any reason, including a subsequent change in federal law or regulations or in State law or rules, unless at least one of the following occurs:

- (1) The modification or cancellation is requested by the Department of Transportation.
- (2) The modification or cancellation is clearly required by a change in federal law or regulations and a failure to modify or cancel the permit by the Department of Environment and Natural Resources will or may result in a loss of federal program delegation or a significant reduction in the availability of federal funds to the Department of Environment and Natural Resources or to the Department of Transportation.
- (3) The modification or cancellation is clearly required by a change in State law as a result of an act of the General Assembly that includes a statement that the General Assembly specifically intends the change in State law to apply to ongoing transportation construction projects.



- (4) The modification or cancellation is ordered by a court of competent jurisdiction.
- (5) The nature or scope of the transportation construction project is significantly expanded or otherwise altered.
- (6) Federal law or regulation requires that the permit expire at the end of a specific term of years."

**DRIVER EDUCATION PRIVATIZATION**

**SECTION 29.7.** The State Board of Education shall study statewide privatization of State-funded driver education programs. The State Board of Education shall report to the Joint Legislative Education Oversight Committee and the Joint Legislative Transportation Oversight Committee by November 30, 2003, on proposals for statewide privatization and cost reduction.

**FUNDS FOR UNSAFE OR OBSOLETE FACILITIES**

**SECTION 29.10.** The Department of Transportation may use funds not to exceed seventy-five hundredths of one percent (.75%) of the funds appropriated in this act to the Department for maintenance and construction programs for major repair, renovation, or replacement of facilities that fail to meet safety standards or that are obsolete for current or future use. Prior to expending these funds, the Department shall submit its proposed budget for these expenditures to the Senate Appropriations Subcommittee on Department of Transportation, the House of Representatives Appropriations Subcommittee on Transportation, and the Joint Legislative Transportation Oversight Committee each year.

**AMEND THE HIGHWAY TRUST FUND ACT DESCRIPTIONS OF URBAN LOOPS AND OTHER INTRASTATE IMPROVEMENT PROJECTS**

**SECTION 29.11.(a)** G.S. 136-180(a) reads as rewritten:

"(a) Funds allocated from the Trust Fund for urban loops may be used only for the following urban loops:

Loop	Description	Affected Counties
Asheville Western Loop	Multilane facility on new location from I-26 west of Asheville to US-19/23 north of Asheville for the purpose of connecting these roads. The funds may be used to improve existing corridors.	Buncombe
Charlotte Outer Loop	Multilane facility on new location encircling City of Charlotte	Mecklenburg

Durham Northern Loop

~~The corridor shall be identified as a part of the local long-range transportation plan as mutually adopted in 2003 by the Durham-Chapel Hill-Carrboro metropolitan planning organization and the North Carolina Board of Transportation~~

Durham, ~~Orange~~Wake

The projects listed below are eligible for funding under this section as part of the Durham Northern Loop. The priorities for planning and constructing these projects will be established by mutual agreement of the Metropolitan Planning Organization (MPO) and the Department of Transportation through the federally mandated Transportation Improvement Program development process. The cross sections for these projects will be established by mutual agreement of the MPO and the Department of Transportation through the State and federal environmental review process.

(1) East end connector, from N.C. 147 to U.S. 70 East.

(2) U.S. 70, from Lynn Rd. to the Northern Durham Parkway.

(3) I-85, from U.S. 70 to Red Mill Rd.

(4) Northern Durham Parkway, Section B, from Old Oxford Rd. to I-85.

(5) Northern Durham Parkway, Section A, from I-85 to I-540.

	(6) <u>Northern Durham Parkway, Section C, from Old Oxford Rd. to Roxboro Rd.</u>	
	(7) <u>Roxboro Rd. from Duke St. to Goodwin Rd.</u>	
<u>Fayetteville Western Outer Loop</u>	<u>Multilane facility on new location from US 401 north of Fayetteville to I-95 south of Hope Mills</u>	<u>Cumberland</u>
Greensboro Loop	Multilane facility on new location encircling City of Greensboro <u>including interchanges with Cone Boulevard Extension and Lewis-Fleming Road Extension</u>	Guilford
<u>Greenville Loop</u>	<u>Multilane extension of the Greenville Loop from US 264 west of Greenville to NC-11 south of Winterville</u>	<u>Pitt</u>
Raleigh Outer Loop	Multilane facility on new location from <del>US-4</del> <u>NC 55</u> southwest of Cary northerly to US-64 in eastern Wake County	Wake
Wilmington Bypass	Multilane facility on new location from US-17 northeast of Wilmington to <del>US-17 southwest of Wilmington,</del> <u>US 421 in southern Wilmington,</u> including the Blue Clay Road interchange	New Hanover
Winston-Salem Northbelt	Multilane facility on new location from I-40 west of Winston-Salem northerly to <del>I-40</del> <u>US 311/Future I-74</u> in eastern Forsyth County."	Forsyth

**SECTION 29.11.(b)** G.S. 136-179 reads as rewritten:

**"§ 136-179. Projects of Intrastate System funded from Trust Fund.**

Funds allocated from the Trust Fund for the Intrastate System may be used only for the following projects of the Intrastate System:

Route	Improvements	Affected Counties
I-40	Widening	Buncombe, Haywood, Guilford, Wake, Durham
I-77	Widening	Mecklenburg

I-85	Widening	Durham, Orange, Alamance, Guilford, Cabarrus, Mecklenburg, Gaston
I-95	Widening	Halifax
US-1	Complete 4-laning from Henderson to South Carolina Line (including 6-laning of Raleigh Beltline)	Vance, Franklin, Wake, Chatham, Lee, Moore, Richmond
<del>US-13</del>	<del>Connector from I-95 to NC-87</del>	<del>Cumberland</del>
US-13	Complete 4-laning from Virginia Line to US-17	Gates, Hertford, Bertie
US-17	Complete 4-laning from Virginia Line to South Carolina Line (including Washington, New Bern, and Jacksonville Bypasses)	Camden, Pasquotank, Perquimans, Chowan, Bertie, Martin, Beaufort, Craven, Jones, Onslow, Pender, New Hanover, Brunswick
US-19/ US-19E	Complete 4-laning from US-23 to NC 194 in Ingalls	Madison, Yancey, Mitchell, Avery
US-19	Complete 4-laning	Cherokee, Macon, Swain
US-23	Complete 4-laning and upgrading existing 4-lanes from Tennessee Line to I-240	Madison, Buncombe
US-23-441	Complete 4-laning from US-19/US-74 to Georgia Line	Macon
US-52	Complete 4-laning from I-77 to Lexington (including new I-77 Connector)	Surry, Davidson

US-64	Complete 4-laning from Raleigh to Coast (including freeway construction from I-95 to US-17)	Edgecombe, Pitt, Martin, Washington, Tyrrell, Dare
US-64	Complete 4-laning from Lexington to Raleigh	Davidson, Randolph, Chatham, Wake
US-70	Complete 4-laning from Raleigh to Morehead City (including Clayton, Goldsboro, Kinston, Smithfield-Selma, and Havelock Bypasses predominately freeways on predominately new locations)	Wake, Johnston, Wayne, Lenoir, Craven
US-74	Complete 4-laning from Charlotte to US-17 (including multilaning of Independence Blvd. in Charlotte, and Bypasses of Monroe, Rockingham, and Hamlet)	Mecklenburg, Union, Richmond, Robeson, Columbus
US-74	Complete 4-laning from I-26 to I-85	Polk, Rutherford
US-158	Complete 4-laning from Winston-Salem to Whalebone	Forsyth, Guilford, Rockingham, Caswell, Person, Granville, Vance, Warren, Halifax, Northampton, Gates, Hertford, Pasquotank, Camden, Currituck, Dare
	New bridge over Currituck Sound	Currituck
US-221	Complete 4-laning from Linville to South Carolina	Avery, McDowell, Rutherford
US-220	Complete 4-laning from I-40 to US-1	Guilford, Randolph, Montgomery, Richmond

US-220/NC-68	Complete 4-laning from Virginia Line to I-40	Rockingham, Guilford
US-264	Complete 4-laning from US-64 to Washington (including Wilson and Greenville Bypasses) (including freeway construction from I-95 to Greenville)	Wilson, Greene, Pitt
US-321	Complete 4-laning from Boone to South Carolina Line	Caldwell, Catawba, Lincoln, Gaston
US-421	Complete 4-laning from Tennessee Line to I-40	Watauga, Wilkes, Yadkin
US-421	Complete 4-laning from Greensboro to Sanford (including Bypass of Sanford)	Chatham, Lee
NC-24	Complete 4-laning from Charlotte to Morehead City	Mecklenburg, Cabarrus, Stanly, Montgomery, Moore, Harnett, Cumberland, Sampson, Duplin, Onslow, Carteret
NC-87	Complete 4-laning from Sanford to US-74	Lee, Harnett, Cumberland, Bladen, Columbus
NC-105	Complete 4-laning from Boone to Linville	Watauga, Avery
NC-168	Complete multilaning from Virginia Line to US-158	Currituck
NC-194	Complete 4-laning from US-19E to US-221".	Avery

#### **HIGHWAY TRUST FUND STUDY COMMITTEE**

**SECTION 29.12.(a)** Study Committee Established. – There is established a Highway Trust Fund Study Committee to report to the Joint Legislative Transportation Oversight Committee.

**SECTION 29.12.(b)** Membership. – The Study Committee shall be composed of 20 members as follows:

- (1) The Chairs of the Joint Legislative Transportation Oversight Committee.
- (2) Five Representatives and four public members appointed by the Speaker of the House of Representatives.
- (3) Five Senators and four public members appointed by the President Pro Tempore of the Senate.

The appointing authorities shall make their appointments to reflect the urban-rural diversity of the population of the State.

**SECTION 29.12.(c)** Duties of the Study Committee. – The Study Committee may study all aspects of the Highway Trust Fund. The study shall include the examination of all the following:

- (1) The current status, cost estimates, and feasibility of Highway Trust Fund projects currently listed in Article 14 of Chapter 136 of the General Statutes.
- (2) Unanticipated problems with the structure of the Highway Trust Fund.
- (3) The gap between transportation funding structures and the actual transportation needs of the State.
- (4) Allocation issues raised by the structure of the transportation funding equity distribution formula in G.S. 136-17.2A.
- (5) The feasibility of altering the project eligibility requirements of the Highway Trust Fund, including permitting the Department of Transportation to add projects as long as adding those projects does not delay projects already to be funded by the Highway Trust Fund, projects scheduled under the 2002-2008 Transportation Improvement Program, and does not impair the cash-flow provisions of G.S. 136-176(a1).
- (6) The feasibility of altering the funding allocation structure of the Highway Trust Fund, including the possible use of the Highway Trust Fund to provide the State match for available federal aid highway funds as long as using the funds in this manner does not delay projects already funded by the Highway Trust Fund, projects scheduled under the 2002-2008 Transportation Improvement Program, and does not impair the cash-flow provisions of G.S. 136-176(a1).
- (7) Any other issue related to the Highway Trust Fund or transportation funding.

**SECTION 29.12.(d)** Vacancies. – The appointing authority shall fill any vacancy on the Study Committee.

**SECTION 29.12.(e)** Cochairs. – The Cochairs of the Study Committee shall be the cochairs of the Joint Legislative Transportation Oversight Committee. The Study Committee shall meet upon the call of the Cochairs. A quorum of the Study Committee shall be nine members.

**SECTION 29.12.(f)** Expenses of Members. – Members of the Study Committee shall receive per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1, 138-5, or 138-6, as appropriate.

**SECTION 29.12.(g)** Staff. – The Legislative Services Office shall assign professional and clerical staff to assist the Study Committee in its work.

**SECTION 29.12.(h)** Consultants. – The Study Committee may hire consultants to examine specific issues and subjects related to the study, in accordance with G.S. 120-32.02.

**SECTION 29.12.(i)** Meetings During Legislative Session. – The Study Committee may meet during a regular or extra session of the General Assembly.

**SECTION 29.12.(j)** Meeting Location. – The Study Committee may meet at various locations around the State in order to promote greater public participation in its deliberations. The Legislative Services Commission shall grant adequate meeting space to the Study Committee in the State Legislative Building or the Legislative Office Building.

**SECTION 29.12.(k)** Report. – The Study Committee may make interim reports and shall make a final report to the Joint Legislative Transportation Oversight Committee no later than November 1, 2004. Regardless of whether it has filed an interim or final report, the Committee shall terminate on November 1, 2004.

**SECTION 29.12.(l)** Funding. – The Study Committee shall be funded from funds available to the Joint Legislative Transportation Oversight Committee, in accordance with G.S. 120-70.52.

**SECTION 29.12.(m)** This section is effective when it becomes law.

### **MPO/RPO TRANSPORTATION PLANNING FUNDING**

**SECTION 29.14.(a)** Of the funds allocated for Highway Trust Fund Administration for the 2003-2004 fiscal year:

- (1) The sum of seven hundred fifty thousand dollars (\$750,000) shall be used to fund the activities of Rural Transportation Planning Organizations created pursuant to Article 17 of Chapter 136 of the General Statutes. None of these funds shall be used to pay for salaries or benefits.
- (2) The sum of two million dollars (\$2,000,000) shall be used to implement the provisions of subsection (b) of this section.
- (3) The sum of seven hundred fifty thousand dollars (\$750,000) shall be used to implement the provisions of subsection (c) of this section.

**SECTION 29.14.(b)** Article 16 of Chapter 136 of the General Statutes is amended by adding a new section to read:

**"§ 136-200.5. Matching funds for Metropolitan Planning Organizations located in nonattainment areas or maintenance areas.**

**(a) Application.** – The lead planning agency for any Metropolitan Planning Organization located in an area designated as a nonattainment or maintenance area under the federal Clean Air Act (42 U.S.C. § 7401, et seq.) may apply to the Department of Transportation for funds to avoid a plan conformity lapse.

**(b) Matching Required.** – Funds provided under this section shall be matched one-for-one by the local applicant agency.

**(c) Use of Funds.** – Funds provided under this section shall be used by the local applicant agency only to avoid a plan conformity lapse.

**(d) Limit on Funds.** – The Department shall not provide more than one million dollars (\$1,000,000) per fiscal year to any lead planning organization of a Metropolitan Planning Organization pursuant to this section.



(e) Payback Required. – Any funds provided to a lead planning organization of a Metropolitan Planning Organization under this section shall be repaid within five years, either from local sources or as an offset against planning funds that might otherwise have been made available from the Department to the lead planning organization."

**SECTION 29.14.(c)** Article 16 of Chapter 136 of the General Statutes is amended by adding a new section to read:

**"§ 136-200.6. Funds for local transportation planning efforts in areas designated nonattainment areas or maintenance areas.**

(a) Application. – A regional transportation planning agency in an area designated as a nonattainment or maintenance area under the federal Clean Air Act (42 U.S.C. § 7401, et seq.) that has policy-setting authority for the entire designated area and that is representative of all local governments within the area, may apply to the Department of Transportation for funds to support local transportation planning efforts in that local government's region.

(b) Matching Required. – Funds provided under this section shall be matched one-for-one by the applicant agency.

(c) Use of Funds. – Funds provided under this section shall only be used by the local applicant agency to support regional transportation planning within the designated area.

(d) Local Staff Required. – Funds shall be provided under this section only if local governments in the designated area support and supply staff to the regional transportation planning agency.

(e) Limit on Funds. – The Department shall not provide more than two hundred fifty thousand dollars (\$250,000) in any fiscal year to any agency pursuant to this section."

#### **FERRY EMPLOYEE POSITIONS**

**SECTION 29.15.** The Ferry Division shall use funds available from increased toll revenues to convert a maximum of 39 temporary positions to permanent positions.

#### **INCIDENT MANAGEMENT ASSISTANCE PATROL PROGRAM PERSONNEL**

**SECTION 29.16.** Up to a maximum 26 full-time temporary positions of the Incident Management Assistance Patrol Program shall be designated as permanent positions.

#### **TRANSPORTATION SERVICES FOR TRADE SHOWS**

**SECTION 29.17.** The Department of Transportation, from funds available for public transportation in this act, may use up to nine hundred thousand dollars (\$900,000) in each year of the biennium for transportation services for annual or semiannual trade shows of international significance. The Department of Transportation shall report to the Joint Legislative Transportation Oversight Committee, annually on or before March 1, on the use of these funds.

#### **VIRGINIA-NORTH CAROLINA INTERSTATE HIGH-SPEED RAIL COMMISSION**

**SECTION 29.19.(a)** Section 2 of S.L. 2001-266, as amended by Section 2.22 of S.L. 2001-486, reads as rewritten:

"**SECTION 2.** In conducting its study, the Commission shall hold regularly scheduled meetings in this State and in Virginia, tours of inspection, and public hearings as appropriate to determine the desirability and feasibility of establishing high-speed passenger rail service between Virginia and North Carolina. The Commission shall also study the establishment of an interstate high-speed rail compact between North Carolina, Virginia, and other states. If it appears to the Commission that establishment of such service or compact is desirable and feasible, the Commission shall consider and recommend to the Governor and General Assembly those legislative actions necessary to do so, including the identification of the necessary levels of funding and the sources of those funds."

**SECTION 29.19.(b)** Section 4 of S.L. 2001-266, as amended by Section 2.22 of S.L. 2001-486, reads as rewritten:

"**SECTION 4.** The Commission shall report its findings and any recommendations to the Governor and the General Assembly by ~~October 20, 2002~~, November 30, 2004, and may make an interim report to the Governor and General Assembly upon the convening of the ~~2002~~ 2004 Regular Session of the ~~2004~~ 2003 General Assembly. The Commission shall terminate on November 30, 2004."

#### **CURRITUCK-COROLLA FERRY SERVICE FUNDS**

**SECTION 29.20.** From funds available to the Department of Transportation in this act, the Department may use up to eight hundred thirty-four thousand dollars (\$834,000) to establish a new ferry service, on or before May 1, 2004, from the Currituck terminal of the Currituck-Knotts Island ferry to Corolla.

#### **DEPARTMENT OF TRANSPORTATION PROJECT DELIVERY PROCESS STUDY**

**SECTION 29.21.** The Joint Legislative Transportation Oversight Committee shall contract with an independent consultant to study the project delivery process of the Department of Transportation. The study shall examine all aspects of the project delivery process, including (i) Department of Transportation planning, design, and contract letting procedures, and (ii) the effect of other resource and regulatory agency decisions and processes on the project delivery process. The study shall identify all significant causes of delay in the project delivery process, and suggest specific, practical solutions to decrease the time it takes to deliver a transportation project from inception to completion. The Committee shall endeavor to complete this study by April 1, 2003. The provisions of G.S. 120-32.02 shall apply to any contract with a consultant pursuant to this section.

#### **USE HIGHWAY TRUST FUND TO MATCH FEDERAL-AID HIGHWAY FUNDS**

**SECTION 29.22.** G.S. 136-176(b) reads as rewritten:

"(b) Funds in the Trust Fund are annually appropriated to the Department of Transportation to be allocated and used as provided in this subsection. A sum, not to exceed four and one-half percent (4.5%) of the amount of revenue deposited in the Trust Fund under subdivisions (a)(1), (2), and (3) of this section, may be used each fiscal year by the Department for expenses to administer the Trust Fund. Operation and project development costs of the North Carolina Turnpike Authority are eligible administrative expenses under this subsection. Any funds allocated to the Authority pursuant to this subsection shall be repaid by the Authority from its toll revenue as soon as possible,

subject to any restrictions included in the agreements entered into by the Authority in connection with the issuance of the Authority's revenue bonds. Beginning one year after the Authority begins collecting tolls on a completed Turnpike Project, interest shall accrue on any unpaid balance owed to the Highway Trust Fund at a rate equal to the State Treasurer's average annual yield on its investment of Highway Trust Fund funds pursuant to G.S. 147-6.1. Interest earned on the unpaid balance shall be deposited in the Highway Trust Fund upon repayment. The sum up to the amount anticipated to be necessary to meet the State matching funds requirements to receive federal-aid highway trust funds for the next fiscal year may be set aside for that purpose. The rest of the funds in the Trust Fund shall be allocated and used as follows:

- (1) Sixty-one and ninety-five hundredths percent (61.95%) to plan, design, and construct the projects of the Intrastate System described in G.S. 136-179 and to pay debt service on highway bonds and notes that are issued under the State Highway Bond Act of 1996 and whose proceeds are applied to these projects.
- (2) Twenty-five and five hundredths percent (25.05%) to plan, design, and construct the urban loops described in G.S. 136-180 and to pay debt service on highway bonds and notes that are issued under the State Highway Bond Act of 1996 and whose proceeds are applied to these urban loops.
- (3) Six and one-half percent (6.5%) to supplement the appropriation to cities for city streets under G.S. 136-181.
- (4) Six and one-half percent (6.5%) for secondary road construction as provided in G.S. 136-182 and to pay debt service on highway bonds and notes that are issued under the State Highway Bond Act of 1996 and whose proceeds are applied to secondary road construction.

The Department must administer funds allocated under subdivisions (1), (2), and (4) of this subsection in a manner that ensures that sufficient funds are available to make the debt service payments on bonds issued under the State Highway Bond Act of 1996 as they become due."

## **RAIL CORRIDOR SUBDIVISIONS**

**SECTION 29.23.(a)** G.S. 160A-376(3) reads as rewritten:

**"§ 160A-376. Definition.**

For the purpose of this Part, "subdivision" means all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future) and shall include all divisions of land involving the dedication of a new street or a change in existing streets; but the following shall not be included within this definition nor be subject to the regulations authorized by this Part:

- ...
- (3) The public acquisition by purchase of strips of land for the widening or opening of ~~streets;~~ streets or for public transportation system corridors; and

...."

**SECTION 29.23.(b)** G.S. 153A-335(3) reads as rewritten:

**"§ 153A-335. "Subdivision" defined.**

For purposes of this Part, "subdivision" means all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose of sale or

building development (whether immediate or future) and includes all division of land involving the dedication of a new street or a change in existing streets; however, the following is not included within this definition and is not subject to any regulations enacted pursuant to this Part:

- ...
- (3) The public acquisition by purchase of strips of land for widening or opening streets or for public transportation system corridors; and
- ...."

**PART XXX. SALARIES AND EMPLOYEE BENEFITS**

**GOVERNOR AND COUNCIL OF STATE/NO SALARY INCREASES**

**SECTION 30.1.(a)** For the 2003-2004 and 2004-2005 fiscal years, the salary of the Governor shall remain the amount set by G.S. 147-11(a).

**SECTION 30.1.(b)** Effective July 1, 2003, the annual salaries for the members of the Council of State, payable monthly, for the 2003-2004 and 2004-2005 fiscal years are:

<b>Council of State</b>	<b>Annual Salary</b>
Lieutenant Governor	\$104,523
Attorney General	104,523
Secretary of State	104,523
State Treasurer	104,523
State Auditor	104,523
Superintendent of Public Instruction	104,523
Agriculture Commissioner	104,523
Insurance Commissioner	104,523
Labor Commissioner	104,523

**NONELECTED DEPARTMENT HEAD/NO SALARY INCREASES**

**SECTION 30.2.** In accordance with G.S. 143B-9, the maximum annual salaries, payable monthly, for the nonelected heads of the principal State departments for the 2003-2004 and 2004-2005 fiscal years are:

<b>Nonelected Department Heads</b>	<b>Annual Salary</b>
Secretary of Administration	\$102,119
Secretary of Correction	102,119
Secretary of Crime Control and Public Safety	102,119
Secretary of Cultural Resources	102,119
Secretary of Commerce	102,119
Secretary of Environment and Natural Resources	102,119
Secretary of Health and Human Services	102,119
Secretary of Juvenile Justice and Delinquency Prevention	102,119
Secretary of Revenue	102,119
Secretary of Transportation	102,119

**CERTAIN EXECUTIVE BRANCH OFFICIALS/NO SALARY INCREASES**

**SECTION 30.3.** The annual salaries, payable monthly, for the 2003-2004 and 2004-2005 fiscal years for the following executive branch officials are:

<b>Executive Branch Officials</b>	<b>Annual Salary</b>
Chairman, Alcoholic Beverage Control Commission	\$92,946
State Controller	130,078
Commissioner of Motor Vehicles	92,946
Commissioner of Banks	104,523
Chairman, Employment Security Commission	129,913
State Personnel Director	102,119
Chairman, Parole Commission	84,871
Members of the Parole Commission	78,356
Chairman, Utilities Commission	116,405
Members of the Utilities Commission	104,523
Executive Director, Agency for Public Telecommunications	78,356
General Manager, Ports Railway Commission	70,755
Director, Museum of Art	95,240
Executive Director, North Carolina Housing Finance Agency	115,031
Executive Director, North Carolina Agricultural Finance Authority	90,470
State Chief Information Officer	130,000

### **JUDICIAL BRANCH OFFICIALS/NO SALARY INCREASES**

**SECTION 30.4.(a)** The annual salaries, payable monthly, for specified judicial branch officials for the 2003-2004 and 2004-2005 fiscal years are:

<b>Judicial Branch Officials</b>	<b>Annual Salary</b>
Chief Justice, Supreme Court	\$118,430
Associate Justice, Supreme Court	115,336
Chief Judge, Court of Appeals	112,452
Judge, Court of Appeals	110,530
Judge, Senior Regular Resident Superior Court	107,527
Judge, Superior Court	104,523
Chief Judge, District Court	94,912
Judge, District Court	91,909
Administrative Officer of the Courts	107,527
Assistant Administrative Officer of the Courts	98,216

**SECTION 30.4.(b)** The district attorney or public defender of a judicial district, with the approval of the Administrative Officer of the Courts or the Commission on Indigent Defense Services, respectively, shall set the salaries of assistant district attorneys or assistant public defenders, respectively, in that district such that the average salaries of assistant district attorneys or assistant public defenders in that district do not exceed sixty thousand one hundred ninety-one dollars (\$60,191), and the minimum salary of any assistant district attorney or assistant public defender is at least thirty-one thousand thirty-five dollars (\$31,035), effective July 1, 2003.

**SECTION 30.4.(c)** Permanent, full-time employees of the Judicial Department, whose salaries are not itemized in this Part, shall be awarded a compensation bonus for the 2003-2004 fiscal year as authorized in this Part.

### **CLERK OF SUPERIOR COURT SALARY INCREASES**

**SECTION 30.5.** For the 2003-2004 and 2004-2005 fiscal years, the compensation of clerks of superior court shall remain as set forth in G.S. 7A-101(a).

**ASSISTANT AND DEPUTY CLERKS OF COURT/SALARY INCREASE**

**SECTION 30.6.** For the 2003-2004 and 2004-2005 fiscal years, the compensation of assistant and deputy clerks of superior court shall remain as set forth in G.S. 7A-102(c1), except that there shall be awarded to each clerk not receiving a statutory step increase a compensation bonus for the 2003-2004 fiscal year as authorized in this Part.

**MAGISTRATES' SALARY INCREASES**

**SECTION 30.7.** For the 2003-2004 and 2004-2005 fiscal years, the compensation of magistrates shall remain as set forth in G.S. 7A-171.1, except that there shall be awarded to each magistrate not receiving a statutory step increase a compensation bonus for the 2003-2004 fiscal year as authorized in this Part.

**GENERAL ASSEMBLY PRINCIPAL CLERKS**

**SECTION 30.8.** For the 2003-2004 and 2004-2005 fiscal years, the compensation of General Assembly principal clerks shall remain as set forth in G.S. 120-37, except that there shall be awarded a compensation bonus for the 2003-2004 fiscal year as authorized in this Part.

**SERGEANT-AT-ARMS AND READING CLERKS**

**SECTION 30.9.** For the 2003-2004 and 2004-2005 fiscal years, the compensation of General Assembly sergeant-at-arms and reading clerks shall remain as set forth in G.S. 120-37.

**LEGISLATIVE EMPLOYEES**

**SECTION 30.10.** The salaries of nonelected employees of the General Assembly shall remain in effect, and the Legislative Services Officer shall award a compensation bonus for the 2003-2004 fiscal year as authorized in this Part. Nothing in this act limits any of the provisions of G.S. 120-32.

**COMMUNITY COLLEGES PERSONNEL**

**SECTION 30.11.** The Director of the Budget shall transfer to the North Carolina Community College System Office from the Reserve for Compensation Increases created in this act for fiscal year 2003-2004 funds necessary to provide a compensation bonus as authorized by this Part for all permanent full-time community college institutional personnel supported by State funds.

**UNIVERSITY OF NORTH CAROLINA SYSTEM/EPA COMPENSATION**

**SECTION 30.12.(a)** The Director of the Budget shall transfer to the Board of Governors of The University of North Carolina sufficient funds from the Reserve for Compensation Increases, created in this act for fiscal year 2003-2004, to fund the compensation bonus authorized by this Part for University employees, other than teachers at the North Carolina School of Science and Mathematics, supported by State funds and whose salaries are exempt from the State Personnel Act (EPA).

**SECTION 30.12.(b)** The Director of the Budget shall transfer to the Board of Governors of The University of North Carolina sufficient funds from the Reserve for Compensation Increases, created in this act for fiscal years 2003-2004 and 2004-2005, to provide an average annual salary increase of one and eighty-one hundredths percent (1.81%), including funds for the employer's retirement and social security contributions,

commencing July 1, 2003, for all teaching employees of the North Carolina School of Science and Mathematics supported by State funds and whose salaries are exempt from the State Personnel Act (EPA). These funds shall be allocated to individuals according to the rules adopted by the Board of Trustees of the North Carolina School of Science and Mathematics and may not be used for any purpose other than for salary increases and necessary employer contributions provided by this section.

#### **COMPENSATION BONUS FOR FISCAL YEAR 2003-2004**

**SECTION 30.12A.(a)** Except as provided by subsection (b) of this section, any person (i) whose salary is set pursuant to the State Personnel Act or under this Part and (ii) who is employed in a State-funded position on October 1, 2003, shall be awarded a one-time, lump-sum compensation bonus for the 2003-2004 fiscal year in the amount of five hundred fifty dollars (\$550.00). The compensation bonus shall be adjusted pro rata for permanent part-time employees. The Director of the Budget shall transfer sufficient funds from the Reserve for Compensation Increases provided in this act to implement this section. The compensation bonus awarded by this section shall not be administered under G.S. 126-7. The compensation bonus shall be awarded to eligible employees without regard to an employee's placement within the salary range, including employees at the top of the salary range.

**SECTION 30.12A.(b)** The following persons shall not be eligible for the compensation bonus authorized by this section:

- (1) Any person whose salary is set under Sections 30.1, 30.2, 30.3, 30.4(a), 30.5, and 30.12(b) of this act.
- (2) Any public school employee or State employee paid on the Teacher Salary Schedule or the School Based Administrator Salary Schedule.
- (3) Any assistant or deputy clerks of superior court receiving a statutory step increase under G.S. 7A-102(c1) for the 2003-2004 fiscal year.
- (4) Any magistrate receiving a statutory step increase under G.S. 7A-171.1 for the 2003-2004 fiscal year.
- (5) Any person receiving automatic increases under G.S. 20-187.3 for the 2003-2004 fiscal year.

#### **SPECIAL ANNUAL LEAVE BONUS**

**SECTION 30.12B.(a)** Except as provided by subsection (b) of this section, effective July 1, 2003, any person (i) who is a full-time permanent employee of the State, a community college institution, or a local board of education and (ii) who is eligible to earn annual leave shall have a one-time additional 10 days of annual leave credited on that date. The additional leave shall be accounted for either separately or together with the leave provided by Section 28.3A of S.L. 2002-126. Part-time permanent employees shall receive a pro rata amount of the 10 days.

**SECTION 30.12B.(b)** The following persons are not eligible to receive the special annual leave bonus authorized by this section:

- (1) Any employee or officer who does not earn annual leave.
- (2) Employees who receive during the 2003-2004 fiscal year an automatic or step increase under G.S. 7A-102(c), 7A-171.1, or 20-187.3.
- (3) Any public school employee or State employee paid on the Teacher Salary Schedule or the School Based Administrator Salary Schedule.

**MOST STATE EMPLOYEES**

**SECTION 30.13.(a)** The salaries in effect June 30, 2003, of all permanent full-time State employees whose salaries are set in accordance with the State Personnel Act, and who are paid from the General Fund or the Highway Fund shall remain in effect for the 2003-2004 and 2004-2005 fiscal years, and there shall be awarded a compensation bonus for the 2003-2004 fiscal year as authorized in this Part.

**SECTION 30.13.(b)** Except as otherwise provided in this act, the compensation of permanent full-time State officials and persons in exempt positions that are recommended by the Governor or the Governor and the Advisory Budget Commission and set by the General Assembly shall remain in effect, and there shall be awarded a compensation bonus for the 2003-2004 fiscal year as authorized in this Part.

**SECTION 30.13.(c)** The salaries of all permanent part-time State employees shall remain in effect, and there shall be awarded a compensation bonus for the 2003-2004 fiscal year as authorized in this Part.

**SECTION 30.13.(d)** The Director of the Budget may allocate out of special operating funds or from other sources of the employing agency, except tax revenues, sufficient funds for salaries in accordance with subsection (a), (b), or (c) of this section including funds for the employer's retirement and social security contributions, for the permanent full-time and part-time employees of the agency, provided the employing agency elects to make available the necessary funds.

**ALL STATE-SUPPORTED PERSONNEL**

**SECTION 30.14.(a)** Salaries and related benefits for positions that are funded partially from the General Fund or Highway Fund and partially from sources other than the General Fund or Highway Fund shall remain in effect and be paid from the General Fund or Highway Fund appropriation only to the extent of the proportionate part of the salaries paid from the General Fund or Highway Fund.

**SECTION 30.14.(b)** The salaries authorized under this act do not affect the status of eligibility for salary increments for which employees may be eligible unless otherwise required by this act.

**SECTION 30.14.(c)** The compensation bonuses do not apply to persons separated from State service due to resignation, dismissal, reduction in force, death, or retirement, or whose last workday is prior to October 1, 2003. This subsection shall apply to all employees, subject to or exempt from the State Personnel Act, paid from State funds, including public schools, community colleges, and The University of North Carolina.

**SECTION 30.14.(d)** The Director of the Budget shall transfer from the Reserve for Compensation Increases in this act for fiscal year 2003-2004 all funds necessary for the compensation increases provided by this act, including funds for the employer's retirement and social security contributions.

**SECTION 30.14.(e)** Nothing in this act authorizes the transfer of funds between the General Fund and the Highway Fund for salary increases.

**EMPLOYEES MAY VOLUNTARILY SHARE LEAVE WITH A COWORKER'S IMMEDIATE FAMILY MEMBER**

**SECTION 30.14A.(a)** Effective July 1, 2003, G.S. 126-8.3, as amended by S.L. 2003-9, reads as rewritten:



**"§ 126-8.3. Voluntary shared leave.**

The State Personnel Commission, in cooperation with the State Board of Community Colleges and the State Board of Education, shall adopt rules and policies to allow any employee at a State agency to share leave voluntarily with an immediate family member who is an employee of a State agency, community college, or public school; and with a coworker's immediate family member who is an employee of a State agency, community college, or public school. For the purposes of this section, the term "immediate family member" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships. The term "coworker" means that the employee donating the leave is employed by the same agency, department, institution, university, local school administrative unit, or community college as the employee whose immediate family member is receiving the leave."

**SECTION 30.14A.(b)** Effective July 1, 2003, G.S. 115C-12.2, as amended by S.L. 2003-9, reads as rewritten:

**"§ 115C-12.2. Voluntary shared leave.**

The State Board of Education, in cooperation with the State Board of Community Colleges and the State Personnel Commission, shall adopt rules and policies to allow any employee at a public school to share leave voluntarily with an immediate family member who is an employee of a public school, community college, or State agency; and with a coworker's immediate family member who is an employee of a public school, community college, or State agency. For the purposes of this section, the term "immediate family member" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships. The term "coworker" means that the employee donating the leave is employed by the same agency, department, institution, university, local school administrative unit, or community college as the employee whose immediate family member is receiving the leave."

**SECTION 30.14A.(c)** Effective July 1, 2003, G.S. 115D-25.3, as enacted by S.L. 2003-9, reads as rewritten:

**"§ 115D-25.3. Voluntary shared leave.**

The State Board of Community Colleges, in cooperation with the State Board of Education and the State Personnel Commission, shall adopt rules and policies to allow any employee at a community college to share leave voluntarily with an immediate family member who is an employee of a community college, public school, or State agency; and with a coworker's immediate family member who is an employee of a community college, public school, or State agency. For the purposes of this section, the term "immediate family member" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships. The term "coworker" means that the employee donating the leave is employed by the same agency, department, institution, university, local school administrative unit, or community college as the employee whose immediate family member is receiving the leave."

**CLERK OF COURT PERSONNEL FLEXIBILITY**

**SECTION 30.14B.** G.S. 7A-102 reads as rewritten:

**"§ 7A-102. Assistant and deputy clerks; appointment; number; salaries; duties.**

(a) The numbers and salaries of assistant clerks, deputy clerks, and other employees in the office of each clerk of superior court shall be determined by the

Administrative Officer of the Courts after consultation with the clerk concerned. All personnel in the clerk's office are employees of the State. The clerk appoints the assistants, deputies, and other employees in ~~his~~ the clerk's office to serve at his or her pleasure. Assistant and deputy clerks shall take the oath of office prescribed for clerks of superior court, conformed to the office of assistant or deputy clerk, as the case may be. ~~The~~ Except as provided by subsection (c2) of this section, the job classifications and related salaries of each employee within the office of each superior court clerk shall be subject to the approval of the Administrative Officer of the Courts after consultation with each clerk concerned and shall be subject to the availability of funds appropriated for that purpose by the General Assembly.

(b) An assistant clerk is authorized to perform all the duties and functions of the office of clerk of superior court, and any act of an assistant clerk is entitled to the same faith and credit as that of the clerk. A deputy clerk is authorized to certify the existence and correctness of any record in the clerk's office, to take the proofs and examinations of the witnesses touching the execution of a will as required by G.S. 31-17, and to perform any other ministerial act which the clerk may be authorized and empowered to do, in his own name and without reciting the name of his principal. The clerk is responsible for the acts of his assistants and deputies. With the consent of the clerk of superior court of each county and the consent of the presiding judge in any proceeding, an assistant or deputy clerk is authorized to perform all the duties and functions of the office of the clerk of superior court in another county in any proceeding in the district or superior court that has been transferred to that county from the county in which the assistant or deputy clerk is employed.

(c) Notwithstanding the provisions of subsection (a), the Administrative Officer of the Courts shall establish an incremental salary plan for assistant clerks and for deputy clerks based on a series of salary steps corresponding to the steps contained in the Salary Plan for State Employees adopted by the Office of State Personnel, subject to a minimum and a maximum annual salary as set forth below. On and after July 1, 1985, each assistant clerk and each deputy clerk shall be eligible for an annual step increase in his salary plan based on satisfactory job performance as determined by each clerk. Notwithstanding the foregoing, if an assistant or deputy clerk's years of service in the office of superior court clerk would warrant an annual salary greater than the salary first established under this section, that assistant or deputy clerk shall be eligible on and after July 1, 1984, for an annual step increase in his salary plan. Furthermore, on and after July 1, 1985, that assistant or deputy clerk shall be eligible for an increase of two steps in his salary plan, and shall remain eligible for a two-step increase each year as recommended by each clerk until that assistant or deputy clerk's annual salary corresponds to his number of years of service. Any person covered by this subsection who would not receive a step increase in fiscal year 1995-96 because that person is at the top of the salary range as it existed for fiscal year 1994-95 shall receive a salary increase to the maximum annual salary provided by subsection (c1) of this section.

(c1) A full-time assistant clerk or a full-time deputy clerk, and up to one full-time deputy clerk serving as head bookkeeper per county, shall be paid an annual salary subject to the following minimum and maximum rates:

Assistant Clerks and Head Bookkeeper	Annual Salary
Minimum	\$26,515
Maximum	46,464

Deputy Clerks	Annual Salary
Minimum	\$22,565
Maximum	35,934.

(c2) The clerk of superior court may appoint assistant clerks, deputy clerks, and a head bookkeeper and set their salaries above the minimum rate established for the positions by subsection (c1) of this section if, in the clerk's discretion, (i) the needs of the clerk's office would be best served by an appointment above the minimum rate, (ii) the appointee's skills and experience support the higher rate, and (iii) the Administrative Office of the Courts certifies that there are sufficient funds available.

(d) Full-time assistant clerks, licensed to practice law in North Carolina, who are employed in the office of superior court clerk on and after July 1, 1984, and full-time assistant clerks possessing a masters degree in business administration, public administration, accounting, or other similar discipline from an accredited college or university who are employed in the office of superior court clerk on and after July 1, 1997, are authorized an annual salary of not less than three-fourths of the maximum annual salary established for assistant clerks; the clerk of superior court, with the approval of the Administrative Office of the Courts, may establish a higher annual salary but that salary shall not be higher than the maximum annual salary established for assistant clerks. Full-time assistant clerks, holding a law degree from an accredited law school, who are employed in the office of superior court clerk on and after July 1, 1984, are authorized an annual salary of not less than two-thirds of the maximum annual salary established for assistant clerks; the clerk of superior court, with the approval of the Administrative Office of the Courts, may establish a higher annual salary, but the entry-level salary may not be more than three-fourths of the maximum annual salary established for assistant clerks, and in no event may be higher than the maximum annual salary established for assistant clerks. ~~The~~ Except as provided by subsection (c2) of this section, the entry-level annual salary for all other assistant and deputy clerks employed on and after July 1, 1984, shall be at the minimum rates as herein established.

(e) A clerk of superior court may apply to the Director of the Administrative Office of the Courts to enter into contracts with local governments for the provision by the State of services of assistant clerks, deputy clerks, and other employees in the office of each clerk of superior court pursuant to G.S. 153A-212.1 or G.S. 160A-289.1.

(f) The Director of the Administrative Office of the Courts may provide assistance requested pursuant to subsection (e) of this section only upon a showing by the senior resident superior court judge, supported by facts, that the overwhelming public interest warrants the use of additional resources for the speedy disposition of cases involving drug offenses, domestic violence, or other offenses involving a threat to public safety.

(g) The terms of any contract entered into with local governments pursuant to subsection (e) of this section shall be fixed by the Director of the Administrative Office of the Courts in each case. Nothing in this section shall be construed to obligate the General Assembly to make any appropriation to implement the provisions of this section or to obligate the Administrative Office of the Courts to provide the administrative costs of establishing or maintaining the positions or services provided for under this section. Further, nothing in this section shall be construed to obligate the Administrative Office of the Courts to maintain positions or services initially provided for under this section."

**STATE AGENCY TEACHERS' COMPENSATION**

**SECTION 30.14C.** Funds in the Reserve for Compensation Increases shall be used for experience step increases for employees of schools operated by the Department of Health and Human Services, the Department of Correction, or the Department of Juvenile Justice and Delinquency Prevention, who are paid on the Teacher Salary Schedule or the School Based Administrator Salary Schedule.

**STUDY COMPENSATION OF CERTAIN HIGH-LEVEL OFFICERS**

**SECTION 30.15.** The Office of State Personnel (OSP) and the Office of State Budget and Management (OSBM) shall study jointly the relative compensation of members of the Council of State, State department heads, and other high-ranking elected and nonelected public officials whose salaries are set by the General Assembly to determine whether the officers are being compensated at rates in accordance with:

- (1) The officer's scope of responsibilities and span of control.
- (2) The critical nature of the officer's department, agency, institution, or function.
- (3) The relative size of the operations and budget under the officer's direct control.
- (4) The required credentials, knowledge, and experience necessary to competently manage the officer's organization or function.

In conducting this study, the OSP and OSBM shall focus on the relative compensation among these various officers to determine the appropriate salary levels for the officers given the factors identified in this section. By April 1, 2004, OSP and OSBM shall report their findings and recommendations to the Joint Legislative Commission on Governmental Operations.

**TEMPORARY SALES TAX TRANSFER FOR WILDLIFE RESOURCES COMMISSION COMPENSATION BONUS**

**SECTION 30.15A.** For the 2003-2004 fiscal year only, the Secretary of Revenue shall transfer at the end of the first quarter from the State sales and use tax collections received by the Department of Revenue under Article 5 of Chapter 105 of the General Statutes to the State Treasurer for the Wildlife Resources Fund to fund the cost of a one-time, lump sum compensation bonus in the amount of five hundred fifty dollars (\$550.00) for employees of the Wildlife Resources Commission, as authorized in this Part.

**SALARY-RELATED CONTRIBUTIONS/EMPLOYER**

**SECTION 30.16.(a)** Required employer salary-related contributions for employees whose salaries are paid from department, office, institution, or agency receipts shall be paid from the same source as the source of the employees' salary. If an employee's salary is paid in part from the General Fund or Highway Fund and in part from department, office, institution, or agency receipts, required employer salary-related contributions may be paid from the General Fund or Highway Fund only to the extent of the proportionate part paid from the General Fund or Highway Fund in support of the salary of the employee, and the remainder of the employer's requirements shall be paid from the source that supplies the remainder of the employee's salary. The requirements of this section as to source of payment are also applicable to payments on behalf of the employee for hospital-medical benefits, longevity pay, unemployment compensation,

accumulated leave, workers' compensation, severance pay, separation allowances, and applicable disability income benefits.

**SECTION 30.16.(b)** Effective July 1, 2003, the State's employer contribution rates budgeted for retirement and related benefits as percentage of covered salaries for the 2003-2004 fiscal year are (i) three and forty-two hundredths percent (3.42%) - Teachers and State Employees; (ii) eight and forty-two hundredths percent (8.42%) - State Law Enforcement Officers; (iii) ten and four hundredths percent (10.04%) - University Employees' Optional Retirement System; (iv) ten and four hundredths percent (10.04%) - Community College Optional Retirement Program; (v) fifteen and twelve hundredths percent (15.12%) - Consolidated Judicial Retirement System; and (vi) three and twenty hundredths percent (3.20%) - Legislative Retirement System. Each of the foregoing contribution rates includes three and twenty hundredths percent (3.20%) for hospital and medical benefits. The rate for State Law Enforcement Officers includes five percent (5%) for Supplemental Retirement Income.

**SECTION 30.16.(c)** Effective July 1, 2004, the State's employer contribution rates budgeted for retirement and related benefits as percentage of covered salaries for the 2004-2005 fiscal year are (i) five and seventy-seven hundredths percent (5.77%) - Teachers and State Employees; (ii) ten and seventy-seven hundredths percent (10.77%) - State Law Enforcement Officers; (iii) ten and fifty-six hundredths percent (10.56%) - University Employees' Optional Retirement System; (iv) ten and fifty-six hundredths percent (10.56%) - Community College Optional Retirement Program; (v) fifteen and twelve hundredths percent (15.12%) - Consolidated Judicial Retirement System; and (vi) three and twenty hundredths percent (3.20%) - Legislative Retirement System. Each of the foregoing contribution rates includes three and twenty hundredths percent (3.20%) for hospital and medical benefits. The rate for Teachers and State Employees, State Law Enforcement Officers, the Community College Optional Retirement Program, and the University Employees' Optional Retirement Program includes fifty-two hundredths percent (0.52%) for the Disability Income Plan. The rate for State Law Enforcement Officers includes five percent (5%) for Supplemental Retirement Income.

**SECTION 30.16.(d)** The maximum annual employer contributions, payable monthly, by the State for each covered employee or retiree for the 2003-2004 fiscal year to the Teachers' and State Employees' Comprehensive Major Medical Plan are: (i) Medicare-eligible employees and retirees - two thousand five hundred eighteen dollars (\$2,518) and (ii) non-Medicare-eligible employees and retirees - three thousand three hundred seven dollars (\$3,307).

**SECTION 30.16.(e)** The maximum annual employer contributions, payable monthly, by the State for each covered employee or retiree for the 2004-2005 fiscal year to the Teachers' and State Employees' Comprehensive Major Medical Plan are: (i) Medicare-eligible employees and retirees - two thousand six hundred twelve dollars (\$2,612) and (ii) non-Medicare-eligible employees and retirees - three thousand four hundred thirty-two dollars (\$3,432).

## RETIREMENT COLAS

**SECTION 30.17.(a)** G.S. 135-5 is amended by adding a new subsection to read:

"(III) From and after July 1, 2003, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 2002, shall be increased by one and twenty-eight hundredths percent (1.28%) of the allowance payable on

June 1, 2003, in accordance with G.S. 135-5(o). Furthermore, from and after July 1, 2003, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 2002, but before June 30, 2003, shall be increased by a prorated amount of one and twenty-eight hundredths percent (1.28%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 2002, and June 30, 2003."

**SECTION 30.17.(b)** G.S. 135-65 is amended by adding a new subsection to read:

"(x) From and after July 1, 2003, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 2002, shall be increased by one and twenty-eight hundredths percent (1.28%) of the allowance payable on June 1, 2003. Furthermore, from and after July 1, 2003, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 2002, but before June 30, 2003, shall be increased by a prorated amount of one and twenty-eight hundredths percent (1.28%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 2002, and June 30, 2003."

**SECTION 30.17.(c)** G.S. 120-4.22A is amended by adding a new subsection to read:

"(r) In accordance with subsection (a) of this section, from and after July 1, 2003, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before January 1, 2003, shall be increased by one and twenty-eight hundredths percent (1.28%) of the allowance payable on June 1, 2003. Furthermore, from and after July 1, 2003, the retirement allowance to or on account of beneficiaries whose retirement commenced after January 1, 2003, but before June 30, 2003, shall be increased by a prorated amount of one and twenty-eight hundredths percent (1.28%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between January 1, 2003, and June 30, 2003."

**TRANSFER OF SERVICE IN THE LEGISLATIVE RETIREMENT SYSTEM TO THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM AND THE JUDICIAL RETIREMENT SYSTEM**

**SECTION 30.18.(a)** G.S. 120-4.13 reads as rewritten:

**"§ 120-4.13. Transfer of membership and benefits.**

(a) The Board of Trustees shall set up procedures to transfer membership from the Legislative Retirement Fund to the Retirement System and to recompute benefits paid to retirees of the Legislative Retirement Fund who elect to transfer to the Retirement System.

(b) The accumulated contributions and creditable service of any member whose service as a member of the General Assembly has been or is terminated other than by retirement or death and who, while still a member of this Retirement System, became or becomes a member, as defined in G.S. 135-1(13), of the Teachers' and State Employees' Retirement System for a period of five or more years may, upon application of the member, be transferred from this Retirement System to the Teachers' and State Employees' Retirement System. In order to effect the transfer of a member's creditable service from the Legislative Retirement System to the Teachers' and State Employees' Retirement System, there shall be transferred from the Legislative Retirement System to the Teachers' and State Employees' Retirement System the sum of (i) the accumulated

contributions of the member credited in the annuity savings fund and (ii) the amount of reserve held in the Legislative Retirement System as a result of previous contributions by the employer on behalf of the transferring member.

(c) The accumulated contributions and creditable service of any member whose service as a member of the General Assembly has been or is terminated other than by retirement or death and who, while still a member of this Retirement System, became or becomes a member, as defined in G.S. 135-53(11), of the Consolidated Judicial Retirement System for a period of five or more years may, upon application of the member, be transferred from this Retirement System to the Consolidated Judicial Retirement System. In order to effect the transfer of a member's creditable service from the Legislative Retirement System to the Consolidated Judicial Retirement System, there shall be transferred from the Legislative Retirement System to the Consolidated Judicial Retirement System the sum of (i) the accumulated contributions of the member credited in the annuity savings fund and (ii) the amount of reserve held in the Legislative Retirement System as a result of previous contributions by the employer on behalf of the transferring member."

**SECTION 30.18.(b)** G.S. 135-4 is amended by adding a new subsection to read:

"(j2) The creditable service of a member who was a member of the Local Governmental Employees' Retirement System, the Consolidated Judicial Retirement System, or the Legislative Retirement System, and whose accumulated contributions and reserves are transferred from that System to this System, includes service that was creditable in the Local Governmental Employees' Retirement System, the Consolidated Judicial Retirement System, or the Legislative Retirement System, and membership service with those Retirement Systems is membership service with this Retirement System."

**SECTION 30.18.(c)** Article 1 of Chapter 135 of the General Statutes is amended by adding a new section to read:

**"§ 135-18.9. Transfer of members from the Legislative Retirement System or the Consolidated Judicial Retirement System.**

(a) The accumulated contributions, creditable service, and reserves, if any, of a member of the Legislative Retirement System, as provided for in Article 1A of G.S. 120, or the Consolidated Judicial Retirement System, as provided for in Article 4 of G.S. 135, who later becomes a member of the Teachers' and State Employees' Retirement System for a period of five or more years may, upon application of the member, be transferred from the Legislative Retirement System or the Consolidated Judicial Retirement System. The accumulated contributions, creditable service, and reserves of any member whose service as a member of the Legislative Retirement System or the Consolidated Judicial Retirement System is terminated other than by retirement or death and who later becomes a member of the Teachers' and State Employees' Retirement System may, upon application of the member, be transferred from the Legislative Retirement System or the Consolidated Judicial Retirement System to the Teachers' and State Employees' Retirement System. In order to effect the transfer of a member's creditable service from the Legislative Retirement System or the Consolidated Judicial Retirement System to the Teachers' and State Employees' Retirement System, the accumulated contributions of each member credited in the annuity savings fund in the Legislative Retirement System or the Consolidated Judicial Retirement System shall be transferred and credited to the annuity savings fund in the Teachers' and State Employees' Retirement System.

(b) The Board of Trustees shall effect such rules as it may deem necessary to administer subsection (a) of this section and to prevent any duplication of service credits or benefits that might otherwise occur."

**SECTION 30.18.(d)** G.S. 135-70 is amended by adding a new subsection to read:

"(a1) The accumulated contributions and creditable service of any member whose service as a member of this Retirement System has been or is terminated other than by retirement or death and who, while still a member of this Retirement System, became or becomes a member, as defined in G.S. 135-1(13), of the Teachers' and State Employees' Retirement System for a period of five or more years may, upon application of the member, be transferred from this Retirement System to the Teachers' and State Employees' Retirement System. In order to effect the transfer of a member's creditable service from this Retirement System to the Teachers' and State Employees' Retirement System, there shall be transferred from this Retirement System to the Teachers' and State Employees' Retirement System the sum of (i) the accumulated contributions of the member credited in the annuity savings fund and (ii) the amount of reserve held in this Retirement System as a result of previous contributions by the employer on behalf of the transferring member."

**SECTION 30.18.(e)** G.S. 135-70.1 reads as rewritten:

**"§ 135-70.1. Transfer of members from the Local Governmental Employees' Retirement System ~~or System~~, the Teachers' and State Employees' Retirement System, ~~System~~, or the Legislative Retirement System.**

"(a) The accumulated contributions, creditable service, and reserves, if any, of a former teacher or employee, as defined in G.S. 135-1(25), 135-1(10), and 128-21(10), respectively, or a former member of the General Assembly who is a member of the Consolidated Judicial Retirement System for a period of five or more years may, upon application of the member, be transferred from the Local Governmental Employees' Retirement System ~~or System~~, the Teachers' and State Employees' Retirement System, ~~System~~, or the Legislative Retirement System to the Consolidated Judicial Retirement System. The accumulated contributions, creditable service, and reserves of any member whose service as a teacher or employee or member of the General Assembly is terminated other than by retirement or death and who becomes a member of the Consolidated Judicial Retirement System may, upon application of the member, be transferred from the Local Governmental Employees' Retirement System ~~or System~~, the Teachers' and State Employees' Retirement System ~~System~~, or the Legislative Retirement System to the Consolidated Judicial Retirement System. In order to effect the transfer of a member's creditable service from the Local Governmental Retirement System ~~or System~~, the Teachers' and State Employees' Retirement System ~~System~~, or the Legislative Retirement System, to the Consolidated Judicial Retirement System, the accumulated contributions of each member credited in the annuity savings fund in the Local Governmental Employees' Retirement System ~~or System~~, the Teachers' and State Employees' Retirement System ~~System~~, or the Legislative Retirement System shall be transferred and credited to the annuity savings fund in the Consolidated Judicial Retirement System.

(b) The Board of Trustees shall effect such rules as it may deem necessary to administer the preceding subsection and to prevent any duplication of service credits or benefits that might otherwise occur."



**SECTION 30.18.(f)** G.S. 135-56(f) reads as rewritten:

"(f) The creditable service of a member who was a member of the Local Governmental Employees' Retirement ~~System or System~~, the Teachers' and State Employees' Retirement ~~System System~~, or the Legislative Retirement System and whose accumulated contributions and reserves are transferred from that System to this System, includes service that was creditable in the Local Governmental Employees' Retirement ~~System or System~~, the Teachers' and State Employees' Retirement System, or the Legislative Retirement System, and membership service with those Retirement Systems is membership service with this Retirement System."

**SECTION 30.18.(g)** G.S. 135-58(a3) reads as rewritten:

"(a3) Any member who retires under the provisions of G.S. 135-57(a) or G.S. 135-57(c) on or after July 1, 2001, but before January 1, 2004, after the member has either attained the member's 65th birthday or has completed 24 years or more of creditable service, shall receive an annual retirement allowance, payable monthly, which shall commence on the effective date of the member's retirement and shall be continued on the first day of each month thereafter during the member's lifetime, the amount of which shall be computed as the sum of the amounts in subdivisions (1), (2), (3), (4), and (5) following, provided that in no event shall the annual allowance payable to any member be greater than an amount which, when added to the allowance, if any, to which the member is entitled under the Teachers' and State Employees' Retirement System, the Legislative Retirement System, or the Local Governmental Employees' Retirement System (prior in any case to any reduction for early retirement or for an optional mode of payment) would total three-fourths of the member's final compensation:

- (1) Four and two-hundredths percent (4.02%) of the member's final compensation, multiplied by the number of years of creditable service rendered as a justice of the Supreme Court or judge of the Court of Appeals;
- (2) Three and fifty-two hundredths percent (3.52%) of the member's final compensation, multiplied by the number of years of creditable service rendered as a judge of the superior court or as Administrative Officer of the Courts;
- (3) Three and two-hundredths percent (3.02%) of the member's final compensation, multiplied by the number of years of creditable service, rendered as a judge of the district court, district attorney, or clerk of superior court;
- (4) A service retirement allowance computed in accordance with the service retirement provisions of Article 3 of Chapter 128 of the General Statutes using an average final compensation as defined in G.S. 135-53(2a) and creditable service equal to the number of years of the member's creditable service that was transferred from the Local Governmental Employees' Retirement System to this System as provided in G.S. 135-56; and
- (5) A service retirement allowance computed in accordance with the service retirement provisions of Article 1 of this Chapter using an average final compensation as defined in G.S. 135-53(2a) and

creditable service, including any sick leave standing to the credit of the member, equal to the number of years of the member's creditable service that was transferred from the Teachers' and State Employees' Retirement System to this System as provided in G.S. 135-56."

**SECTION 30.18.(h)** G.S. 135-58 is amended by adding a new subsection to read:

"(a4) Any member who retires under the provisions of G.S. 135-57(a) or G.S. 135-57(c) on or after January 1, 2004, after the member has either attained the member's 65th birthday or has completed 24 years or more of creditable service, shall receive an annual retirement allowance, payable monthly, which shall commence on the effective date of the member's retirement and shall be continued on the first day of each month thereafter during the member's lifetime, the amount of which shall be computed as the sum of the amounts in subdivisions (1), (2), (3), (4), and (5) of this subsection, provided that in no event shall the annual allowance payable to any member be greater than an amount which, when added to the allowance, if any, to which the member is entitled under the Teachers' and State Employees' Retirement System, the Legislative Retirement System, or the Local Governmental Employees' Retirement System (prior in any case to any reduction for early retirement or for an optional mode of payment), would total three-fourths of the member's final compensation:

- (1) Four and two hundredths percent (4.02%) of the member's final compensation, multiplied by the number of years of creditable service rendered as a justice of the Supreme Court or judge of the Court of Appeals;
- (2) Three and fifty-two hundredths percent (3.52%) of the member's final compensation, multiplied by the number of years of creditable service rendered as a judge of the superior court or as Administrative Officer of the Courts;
- (3) Three and two hundredths percent (3.02%) of the member's final compensation, multiplied by the number of years of creditable service rendered as a judge of the district court, district attorney, or clerk of superior court;
- (4) A service retirement allowance computed in accordance with the service retirement provisions of Article 3 of Chapter 128 of the General Statutes using an average final compensation as defined in G.S. 135-53(2a) and creditable service equal to the number of years of the member's creditable service that was transferred from the Local Governmental Employees' Retirement System to this System as provided in G.S. 135-56; and
- (5) A service retirement allowance computed in accordance with the service retirement provisions of Article 1 of this Chapter of the General Statutes using an average final compensation as defined in G.S. 135-53(2a) and creditable service, including any sick leave standing to the credit of the member, equal to the number of years of the member's creditable service that was transferred from the Teachers' and State Employees' Retirement System or the Legislative Retirement System to this System as provided in G.S. 135-56."

**SECTION 30.18.(i)** The Retirement Systems Division of the Department of State Treasurer and the Board of Trustees of the Teachers' and State Employees' Retirement System shall study the feasibility and cost implications of applying the

provisions of this section to present retirees of the Legislative Retirement System. The Retirement Systems Division of the Department of State Treasurer and the Board of Trustees of the Teachers' and State Employees' Retirement System shall submit a report to the General Assembly no later than April 1, 2004, on their findings and recommendations.

**SECTION 30.18.(j)** This section becomes effective January 1, 2004.

**INCREASE THE AMOUNT OF THE DEATH BENEFIT PAID WHEN A LAW ENFORCEMENT OFFICER, FIREFIGHTER, RESCUE SQUAD WORKER, OR SENIOR CIVIL AIR PATROL MEMBER IS KILLED IN THE LINE OF DUTY AND PROVIDE THAT THE DEATH OF A FIREMAN BY HEART ATTACK WHILE ON DUTY OR WITHIN TWENTY-FOUR HOURS AFTER PARTICIPATING IN A TRAINING EXERCISE OR RESPONDING TO AN EMERGENCY SITUATION IS A QUALIFYING EVENT**

**SECTION 30.18A.(a)** G.S. 143-166.3 reads as rewritten:

**"§ 143-166.3. Payments; determination.**

(a) When any law-enforcement officer, fireman, rescue squad worker or senior Civil Air Patrol member shall be killed in the line of duty, the Industrial Commission shall award a death benefit to be paid in the amounts set forth in subsection (b) to the following:

- (1) The spouse of such officer, fireman, rescue squad worker or senior Civil Air Patrol member if there be a surviving spouse; or
- (2) If there be no spouse qualifying under the provisions of this Article, then payments shall be made to any surviving dependent child of such officer, fireman, rescue squad worker or senior Civil Air Patrol member and if there be more than one surviving dependent child, then said payment shall be made to and equally divided among all surviving dependent children; or
- (3) If there be no spouse and no dependent child or children qualifying under the provisions of this Article, then payments shall be made to the surviving dependent parent of such officer, fireman, rescue squad worker or senior Civil Air Patrol member and if there be more than one surviving dependent parent then said payments shall be made to and equally divided between the surviving dependent parents of said officer, fireman, rescue squad worker or senior Civil Air Patrol member.

(b) Payment shall be made to the person or persons qualifying therefor under subsection (a) in the following amounts:

- (1) At the time of the death of an officer, fireman, rescue squad worker or senior Civil Air Patrol member, ~~ten thousand dollars (\$10,000)~~ twenty thousand dollars (\$20,000) shall be paid to the person or persons entitled thereto.
- (2) Thereafter, ~~five thousand dollars (\$5,000)~~ ten thousand dollars (\$10,000) shall be paid annually to the person or persons entitled thereto until the sum of the initial payment and each annual payment reaches ~~twenty five thousand dollars (\$25,000)~~ fifty thousand dollars (\$50,000).

- (3) In the event there is no person qualifying under subsection (a) of this section, ~~twenty five thousand dollars (\$25,000)~~ fifty thousand dollars (\$50,000) shall be paid to the estate of the deceased officer, fireman, rescue squad worker or senior Civil Air Patrol member at the time of death.

(c) In the event that any person or persons eligible for payments under subsection (a) of this section shall become ineligible, and other eligible person or persons qualify for said death benefit payments under subsection (a), then they shall receive the remainder of any payments up to the limit of ~~twenty five thousand dollars (\$25,000)~~ fifty thousand dollars (\$50,000) in the manner set forth in subsection (b) of this section.

(d) In the event any person or persons eligible for payments under subsection (a) of this section shall become ineligible and no other person or persons qualify for payments under that subsection and where the sum of the initial payment of ~~ten thousand dollars (\$10,000)~~ twenty thousand dollars (\$20,000) and each subsequent annual payment of ~~five thousand dollars (\$5,000)~~ ten thousand dollars (\$10,000) does not total ~~twenty five thousand dollars (\$25,000)~~ fifty thousand dollars (\$50,000), then the difference between the total of the payments made and ~~twenty five thousand dollars (\$25,000)~~ fifty thousand dollars (\$50,000) shall immediately be payable to the estate of the deceased officer, fireman, rescue squad worker, or senior Civil Air Patrol member."

**SECTION 30.18A.(b)** G.S. 143-166.2(c) reads as rewritten:

"(c) The term 'killed in the line of duty' shall apply to any law-enforcement officer, fireman, rescue squad worker who is killed or dies as a result of bodily injuries sustained or of extreme exercise or extreme activity experienced in the course and scope of his official duties while in the discharge of his official duty or duties. When applied to a senior member of the Civil Air Patrol as defined in this Article, 'killed in the line of duty' shall mean any such senior member of the North Carolina Wing-Civil Air Patrol who is killed or dies as a result of bodily injuries sustained or of extreme exercise or extreme activity experienced in the course and scope of his official duties while engaged in a State requested and approved mission pursuant to Article 11 of Chapter 143B of the General Statutes. For purposes of this Article, when a fireman dies as the direct and proximate result of a myocardial infarction suffered while on duty or within 24 hours after participating in a training exercise or responding to an emergency situation, the fireman is presumed to have been killed in the line of duty."

## **INCREASE MONTHLY PENSION FOR MEMBERS OF THE FIREMEN'S AND RESCUE SQUAD WORKERS' PENSION FUND**

**SECTION 30.19.** G.S. 58-86-55 reads as rewritten:

"§ 58-86-55. **Monthly pensions upon retirement.**

Any member who has served 20 years as an "eligible fireman" or "eligible rescue squad worker" in the State of North Carolina, as provided in G.S. 58-86-25 and G.S. 58-86-30, and who has attained the age of 55 years is entitled to be paid a monthly pension from this fund. The monthly pension shall be in the amount of ~~one hundred fifty six dollars (\$156.00)~~ one hundred fifty-eight dollars (\$158.00) per month. Any retired fireman receiving a pension shall, effective ~~July 1, 2002,~~ July 1, 2003, receive a pension of ~~one hundred fifty six dollars (\$156.00)~~ one hundred fifty-eight dollars (\$158.00) per month.

Members shall pay ten dollars (\$10.00) per month as required by G.S. 58-86-35 and G.S. 58-86-40 for a period of no longer than 20 years. No "eligible rescue squad member" shall receive a pension prior to July 1, 1983. No member shall be entitled to a

pension hereunder until the member's official duties as a fireman or rescue squad worker for which the member is paid compensation shall have been terminated and the member shall have retired as such according to standards or rules fixed by the board of trustees.

A member who is totally and permanently disabled while in the discharge of the member's official duties as a result of bodily injuries sustained or as a result of extreme exercise or extreme activity experienced in the course and scope of those official duties and who leaves the fire or rescue squad service because of this disability shall be entitled to be paid from the fund a monthly benefit in an amount of ~~one hundred fifty six dollars (\$156.00)~~ one hundred fifty-eight dollars (\$158.00) per month beginning the first month after the member's fifty-fifth birthday. All applications for disability are subject to the approval of the board who may appoint physicians to examine and evaluate the disabled member prior to approval of the application, and annually thereafter. Any disabled member shall not be required to make the monthly payment of ten dollars (\$10.00) as required by G.S. 58-86-35 and G.S. 58-86-40.

A member who is totally and permanently disabled for any cause, other than line of duty, who leaves the fire or rescue squad service because of this disability and who has at least 10 years of service with the pension fund, may be permitted to continue making a monthly contribution of ten dollars (\$10.00) to the fund until the member has made contributions for a total of 240 months. The member shall upon attaining the age of 55 years be entitled to receive a pension as provided by this section. All applications for disability are subject to the approval of the board who may appoint physicians to examine and evaluate the disabled member prior to approval of the application and annually thereafter.

A member who, because his residence is annexed by a city under Part 2 or Part 3 of Article 4 of Chapter 160A of the General Statutes, or whose department is closed because of an annexation by a city under Part 2 or Part 3 of Article 4 of Chapter 160A of the General Statutes, or whose volunteer department is taken over by a city or county, and because of such annexation or takeover is unable to perform as a fireman or rescue squad worker of any status, and if the member has at least 10 years of service with the pension fund, may be permitted to continue making a monthly contribution of ten dollars (\$10.00) to the fund until the member has made contributions for a total of 240 months. The member upon attaining the age of 55 years and completion of such contributions shall be entitled to receive a pension as provided by this section. Any application to make monthly contributions under this section shall be subject to a finding of eligibility by the Board of Trustees upon application of the member.

The pensions provided shall be in addition to all other pensions or benefits under any other statutes of the State of North Carolina or the United States, notwithstanding any exclusionary provisions of other pensions or retirement systems provided by law."

**EQUALIZE LONGEVITY SERVICE FOR DISTRICT ATTORNEYS,  
ASSISTANT DISTRICT ATTORNEYS, PUBLIC DEFENDERS, AND  
ASSISTANT PUBLIC DEFENDERS**

**SECTION 30.19A.(a)** G.S. 7A-65(c) reads as rewritten:

"(c) In lieu of merit and other increment raises paid to regular State employees, a district attorney shall receive as longevity pay an amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the Current Operations Appropriations Act payable monthly after five years of service, and nine and six-tenths percent (9.6%) after 10 years of service, fourteen and four-tenths percent (14.4%) after 15 years of

service, and nineteen and two-tenths percent (19.2%) after 20 years of service. Service shall mean service in the elective position of a district attorney and shall not include service as a deputy or acting district attorney. Service shall also mean service as a justice or judge of the General Court of Justice, ~~as a clerk of superior court, or as an assistant district attorney.~~ attorney, public defender, appellate defender, or assistant public or appellate defender."

**SECTION 30.19A.(b)** G.S. 7A-65(d) reads as rewritten:

"(d) In lieu of merit and other increment raises paid to regular State employees, an assistant district attorney shall receive as longevity pay an amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the Current Operations Appropriations Act payable monthly after five years of service, nine and six-tenths percent (9.6%) after 10 years of service, fourteen and four-tenths percent (14.4%) after 15 years of service, and nineteen and two-tenths percent (19.2%) after 20 years of service. "Service" means service as an assistant district ~~attorney or as a district attorney.~~ attorney, district attorney, public defender, appellate defender, assistant public or appellate defender, justice or judge of the General Court of Justice, or clerk of superior court."

**SECTION 30.19A.(c)** G.S. 7A-498.7(c) reads as rewritten:

"(c) A public defender shall be an attorney licensed to practice law in North Carolina and shall devote full time to the duties of the office. In lieu of merit and other increment raises paid to regular State employees, a public defender shall receive as longevity pay an amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the Current Operations Appropriations Act payable monthly after five years of service, nine and six-tenths percent (9.6%) after 10 years of service, fourteen and four-tenths percent (14.4%) after 15 years of service, and nineteen and two-tenths percent (19.2%) after 20 years of service. "Service" means service as a public defender, appellate defender, assistant public or appellate defender, district attorney, assistant district attorney, justice or judge of the General Court of Justice, or clerk of superior court."

**SECTION 30.19A.(d)** G.S. 7A-498.7(g) reads as rewritten:

"(g) In lieu of merit and other increment raises paid to regular State employees, an assistant public defender shall receive as longevity pay an amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the Current Operations Appropriations Act payable monthly after five years of service, nine and six-tenths percent (9.6%) after 10 years of service, fourteen and four-tenths percent (14.4%) after 15 years of service, and nineteen and two-tenths percent (19.2%) after 20 years of service. "Service" means service as a public defender, appellate defender, assistant public or appellate defender, district attorney, assistant district attorney, justice or judge of the General Court of Justice, or clerk of superior court."

## **REDIRECTION OF COURT FEES**

**SECTION 30.19B.(a)** G.S. 7A-304(a) reads as rewritten:

"(a) In every criminal case in the superior or district court, wherein the defendant is convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the prosecuting witness, the following costs shall be assessed and collected, except that when the judgment imposes an active prison sentence, costs shall be assessed and collected only when the judgment specifically so provides, and that no costs may be assessed when a case is dismissed.

- (1) For each arrest or personal service of criminal process, including citations and subpoenas, the sum of five dollars (\$5.00), to be remitted to the county wherein the arrest was made or process was served, except that in those cases in which the arrest was made or process served by a law-enforcement officer employed by a municipality, the fee shall be paid to the municipality employing the officer.
- (2) For the use of the courtroom and related judicial facilities, the sum of twelve dollars (\$12.00) in the district court, including cases before a magistrate, and the sum of thirty dollars (\$30.00) in superior court, to be remitted to the county in which the judgment is rendered. In all cases where the judgment is rendered in facilities provided by a municipality, the facilities fee shall be paid to the municipality. Funds derived from the facilities fees shall be used exclusively by the county or municipality for providing, maintaining, and constructing adequate courtroom and related judicial facilities, including: adequate space and furniture for judges, district attorneys, public defenders and other personnel of the Office of Indigent Defense Services, magistrates, juries, and other court related personnel; office space, furniture and vaults for the clerk; jail and juvenile detention facilities; free parking for jurors; and a law library (including books) if one has heretofore been established or if the governing body hereafter decides to establish one. In the event the funds derived from the facilities fees exceed what is needed for these purposes, the county or municipality may, with the approval of the Administrative Officer of the Courts as to the amount, use any or all of the excess to retire outstanding indebtedness incurred in the construction of the facilities, or to reimburse the county or municipality for funds expended in constructing or renovating the facilities (without incurring any indebtedness) within a period of two years before or after the date a district court is established in such county, or to supplement the operations of the General Court of Justice in the county.
- (3) For the retirement and insurance benefits of both State and local government law-enforcement officers, the sum of ~~seven dollars and twenty-five cents (\$7.25)~~, six dollars and twenty-five cents (\$6.25), to be remitted to the State Treasurer. Fifty cents (50¢) of this sum shall be administered as is provided in Article 12C of Chapter 143 of the General Statutes. Five dollars and seventy-five cents (\$5.75) of this sum shall be administered as is provided in Article 12E of Chapter 143 of the General Statutes, with one dollar and twenty-five cents (\$1.25) being administered in accordance with the provisions of G.S. 143-166.50(e). ~~One dollar (\$1.00) of this sum shall be administered as is provided in Article 12F of Chapter 143 of the General Statutes.~~
- (3a) For the supplemental pension benefits of sheriffs, the sum of seventy-five cents (75¢) to be remitted to the Department of Justice and administered under the provisions of Article 12G of Chapter 143 of the General Statutes.
- (4) For support of the General Court of Justice, the sum of ~~seventy-five dollars (\$75.00)~~ seventy-six dollars (\$76.00) in the district court, including cases before a magistrate, and the sum of ~~eighty-two dollars~~

~~(\$82.00)~~ eighty-three dollars (\$83.00) in the superior court, to be remitted to the State Treasurer. For a person convicted of a felony in superior court who has made a first appearance in district court, both the district court and superior court fees shall be assessed. The State Treasurer shall remit the sum of one dollar and five cents (\$1.05) of each fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.4.

- (5) For using pretrial release services, the district or superior court judge shall, upon conviction, impose a fee of fifteen dollars (\$15.00) to be remitted to the county providing the pretrial release services. This cost shall be assessed and collected only if the defendant had been accepted and released to the supervision of the agency providing the pretrial release services.
- (6) For support of the General Court of Justice, for the issuance by the clerk of a report to the Division of Motor Vehicles pursuant to G.S. 20-24.2, the sum of fifty dollars (\$50.00), to be remitted to the State Treasurer. Upon a showing to the court that the defendant failed to appear because of an error or omission of a judicial official, a prosecutor, or a law-enforcement officer, the court shall waive this fee.
- (7) For the services of the State Bureau of Investigation laboratory facilities, the district or superior court judge shall, upon conviction, order payment of the sum of three hundred dollars (\$300.00) to be remitted to the Department of Justice for support of the State Bureau of Investigation. This cost shall be assessed only in cases in which, as part of the investigation leading to the defendant's conviction, the laboratories have performed DNA analysis of the crime, tests of bodily fluids of the defendant for the presence of alcohol or controlled substances, or analysis of any controlled substance possessed by the defendant or the defendant's agent. The court may waive or reduce the amount of the payment required by this subdivision upon a finding of just cause to grant such a waiver or reduction."

**SECTION 30.19B.(b)** G.S. 143-166.60(a) reads as rewritten:

"(a) ~~Of the sum derived from the cost of court provided for in G.S. 7A-304(a)(3), the amount designated for this Article shall be set aside and held in a separate fund to create a~~ A Separate Insurance Benefits Plan, hereinafter called the "Plan", is to be an employee welfare benefit plan, established for the benefit of (i) all law enforcement officers, as defined in G.S. 135-1(11b) and G.S. 128-21(11b) employed by the State and local governments and (ii) all former law-enforcement officers previously employed by the State and local governments, who had 20 or more years of service as an officer or are in receipt of a disability retirement allowance from any State-administered retirement system or are in receipt of a benefit from the Disability Income Plan of North Carolina, who shall be participants."

#### **STATE EMPLOYEE HEALTH BENEFIT PLAN/BENEFIT CHANGES**

**SECTION 30.19C.(a)** G.S. 135-40.8(d) reads as rewritten:

"(d) Where a network of qualified preferred providers of inpatient and outpatient hospital care is reasonably available for use by those individuals covered by the Plan, use of providers outside of the preferred network shall be subject to a twenty percent (20%) coinsurance rate up to five thousand dollars (\$5,000) per fiscal year per covered



individual up to an aggregate of fifteen thousand dollars (\$15,000) per employee and child(ren) or employee and family coverage contract per fiscal year in addition to the general coinsurance percentage and maximum fiscal year amount specified by G.S. 135-40.4 and G.S. 135-40.6. The Plan then pays one hundred percent (100%) of the remaining covered expenses."

**SECTION 30.19C.(b)** G.S. 135-40.8 is amended by adding a new subsection to read:

"(e) Where qualified out-of-state preferred providers of medical care are not reasonably available in medical emergencies, the Plan pays the amounts covered by subsection (a) of this section. Any amount of charges for services under this section that exceeds the amount allowed by the Plan for the services of qualified preferred providers under this section shall be negotiated between the Plan and the provider of medical services, and the Plan shall ensure that the Plan member is not held financially responsible for the amount of these excess charges. If a Plan member is not capable of making a decision about choosing an in-State qualified preferred provider and emergency services personnel transport the Plan member to a provider outside of the Plan network, then the coverage under this subsection shall apply. As used in this section, a 'medical emergency' is the sudden and unexpected onset of a condition manifesting itself by acute symptoms of sufficient severity that, in the absence of immediate medical care, could imminently result in injury or danger to self or others."

**STUDY COMMISSION ON STATE DISABILITY INCOME PLAN, THE DEATH BENEFIT PLAN, AND SEPARATE INSURANCE BENEFITS PLAN FOR LAW ENFORCEMENT OFFICERS/AMEND DEFINITION OF DISABILITY APPLICABLE TO THE STATE DISABILITY INCOME PLAN**

**SECTION 30.20.(a)** There is established a Study Commission on the State Disability Income Plan, the State Death Benefit Plan, and the Separate Insurance Benefits Plan for Law Enforcement Officers.

**SECTION 30.20.(b)** The Commission shall be comprised of seven members as follows:

- (1) Two persons appointed by the President Pro Tempore of the Senate. One of these appointees shall be a State employee.
- (2) Two persons appointed by the Speaker of the House of Representatives. One of these appointees shall be a State employee.
- (3) The State Treasurer, or the Treasurer's designee.
- (4) The Executive Administrator of the Teachers' and State Employees' Comprehensive Major Medical Plan.
- (5) The President of the North Carolina Association of Educators, or the President's designee.

Any vacancy shall be filled by the officer who made the original appointment.

**SECTION 30.20.(c)** The Commission shall study the plan design, funding, and administration of the Disability Income Plan of North Carolina established pursuant to Article 6 of Chapter 135 of the General Statutes, the Death Benefit Plan established pursuant to G.S. 135-5(l), and the Separate Insurance Benefits Plan for State and Local Governmental Law Enforcement Officers established pursuant to G.S. 143-166.60 to determine what changes, if any, should be made to those Plans. The Commission shall consider what changes could be made to the Plans that would enhance the efficiency of and reduce the cost of the Plans to the State and its employees.

**SECTION 30.20.(d)** The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall designate cochairs of the Commission from among their respective appointees. The Commission shall meet upon the call of the cochairs. Members of the Commission shall receive per diem, subsistence, and travel allowance in accordance with G.S. 120-3.1, 138-5, or 138-6, as appropriate. The Commission, while in the discharge of official duties, may exercise all powers provided for under the provisions of G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4. The Commission shall terminate the earlier of the delivery of its final report or December 31, 2004.

**SECTION 30.20.(e)** The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist the Commission in its work. The House of Representatives' and the Senate's Directors of Legislative Assistants shall assign clerical staff to the Commission, and the expenses relating to the clerical employees shall be borne by the Commission. Subject to the approval of the Legislative Services Commission, the Commission may meet in the Legislative Building or the Legislative Office Building.

**SECTION 30.20.(f)** The Commission shall employ an actuary with expertise in the areas of disability income insurance and group life insurance to assist the Commission in its work pursuant to the procedure set forth in G.S. 120-32.02. This actuary shall not be a State employee or a person currently under contract with the State to provide services. If necessary, the Commission may hire other employees as provided in G.S. 120-32.02.

**SECTION 30.20.(g)** The Commission may meet during a regular or extra session of the General Assembly, subject to approval of the President Pro Tempore of the Senate and the Speaker of the House of Representatives.

**SECTION 30.20.(h)** The Commission shall submit a report of the results of its study, including any legislative recommendations, to the General Assembly not later than January 1, 2005.

**SECTION 30.20.(i)** Of the funds appropriated to the General Assembly, the Legislative Services Commission shall allocate funds to implement the provisions of subsections (a) through (i) of this section.

**SECTION 30.20.(j)** G.S. 135-101(6) reads as rewritten:

"(6) "Disability" or "Disabled" shall mean the ~~mental or physical incapacity for the further performance of duty of a participant or beneficiary;~~ physical or cognitive limitations that prevent working as determined by the Department of State Treasurer and the Board of Trustees; provided that such incapacity was not the result of terrorist activity, active participation in a riot, committing or attempting to commit a felony, or intentionally self-inflicted injury.

**SECTION 30.20.(k)** G.S. 135-105(a) reads as rewritten:

"(a) Any participant who becomes disabled and ~~is no longer able to perform his usual occupation~~ is unable to perform the duties of the participant's job or any other available jobs with the State may, after at least 365 calendar days succeeding his date of initial employment as a teacher or employee and at least one year of contributing membership service, receive a benefit commencing on the first day succeeding the waiting period; provided that the participant's employer and attending physician shall certify that such participant ~~is mentally or physically incapacitated for the further performance of duty,~~ cannot perform the duties of the participant's job or any other jobs available with the State, that such incapacity was incurred at the time of active

employment and has been continuous thereafter; provided further that the requirement for one year of contributing membership service must have been earned within 36 calendar months immediately preceding the date of disability and further, salary continuation used during the period as provided in G.S. 135-104 shall count toward the aforementioned one year requirement.

Notwithstanding the requirement that the incapacity was incurred at the time of active employment, any participant who becomes disabled while on an employer approved leave of absence and who is eligible for and in receipt of temporary total benefits under The North Carolina Workers' Compensation Act, Article 1 of Chapter 97 of the General Statutes, will be eligible for all benefits provided under this Article."

**SECTION 30.20.(I)** G.S. 135-106(a) reads as rewritten:

"(a) Upon the application of a beneficiary or participant or of his legal representative or any person deemed by the Board of Trustees to represent the participant or beneficiary, any beneficiary or participant who has had five or more years of membership service may receive long-term disability benefits from the Plan upon approval by the Board of Trustees, commencing on the first day succeeding the conclusion of the short-term disability period provided for in G.S. 135-105, provided the beneficiary or participant makes application for such benefit within 180 days after the short-term disability period ceases, after salary continuation payments cease, or after monthly payments for Workers' Compensation cease, whichever is later; Provided, that the beneficiary or participant withdraws from active service by terminating employment as a teacher or State employee; Provided, that the Medical Board shall certify that such beneficiary or participant is ~~mentally or physically incapacitated for the further performance of duty~~, unable to perform any occupation for which the beneficiary or participant is reasonably qualified for by training or experience, that such incapacity was incurred at the time of active employment and has been continuous thereafter, that such incapacity is likely to be permanent; Provided further that the Medical Board shall not certify any beneficiary or participant as disabled who is in receipt of any payments on account of the same incapacity which existed when the beneficiary first established membership in the Retirement System. The Board of Trustees may extend this 180-day filing requirement upon receipt of clear and convincing evidence that application was delayed through no fault of the disabled beneficiary or participant and was delayed due to the employers' miscalculation of the end of the 180-day filing period. However, in no instance shall the filing period be extended beyond an additional 180 days.

The Board of Trustees may require each beneficiary who becomes eligible to receive a long-term disability benefit to have an annual medical review or examination for the first five years and thereafter once every three years after the commencement of benefits under this section. However, the Board of Trustees may require more frequent examinations and upon the advice of the Medical Board shall determine which cases require such examination. Should any beneficiary refuse to submit to any examination required by this subsection or by the Medical Board, his long-term disability benefit shall be suspended until he submits to an examination, and should his refusal last for one year, his benefit may be terminated by the Board of Trustees. If the Medical Board finds that a beneficiary is no longer ~~mentally or physically incapacitated for the further performance of duty~~, the Medical Board shall so certify this finding to the Board of Trustees, and unable to perform any occupation for which the beneficiary or participant is reasonably qualified for by training or experience, the Department of State Treasurer and the Board of Trustees may terminate the beneficiary's long-term disability benefits

effective on the last day of the month in which the Medical Board certifies that the beneficiary is no longer disabled.

As to the requirement of five years of membership service, any participant or beneficiary who does not have five years of membership service within the 96 calendar months prior to conclusion of the short-term disability period or cessation of salary continuation payments, whichever is later, shall not be eligible for long-term disability benefits.

Notwithstanding the requirement that the incapacity was incurred at the time of active employment, any participant who becomes disabled while on an employer approved leave of absence and who is eligible for and in receipt of temporary total benefits under The North Carolina Workers' Compensation Act, Article 1 of Chapter 97 of the General Statutes, will be eligible for all benefits provided under this Article."

**SECTION 30.20.(m)** Subsections (j) though (l) of this section apply only to persons who are not vested in the disability plan in question on July 1, 2003.

**STUDY ESTABLISHMENT OF STATEWIDE BENEFIT COMMITTEE TO PROVIDE A MENU OF PORTABLE SUPPLEMENTAL BENEFITS FOR ALL STATE EMPLOYEES**

**SECTION 30.21.(a)** There is established a Study Commission on Establishment of a Statewide Benefit Committee to Provide a Menu of Portable Supplemental Benefits for all State Employees.

**SECTION 30.21.(b)** The Commission shall be comprised of nine members as follows:

- (1) Four persons appointed by the President Pro Tempore of the Senate. At least one of these appointees shall be a State employee.
- (2) Four persons appointed by the Speaker of the House of Representatives. At least one of these appointees shall be a State employee.
- (3) The Director of the Office of State Personnel.

Any vacancy shall be filled by the officer who made the original appointment.

**SECTION 30.21.(c)** The Commission shall study whether there should be established a Statewide Benefit Committee to provide a menu of portable supplemental benefits for all State employees, rather than the current system of a committee in each payroll unit.

**SECTION 30.21.(d)** The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall designate cochairs of the Commission from among their respective appointees. The Commission shall meet upon the call of the cochairs. Members of the Commission shall receive per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1, 138-5, or 138-6, as appropriate. The Commission, while in the discharge of official duties, may exercise all powers provided for under the provisions of G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4. The Commission shall terminate the earlier of the delivery of its final report or December 31, 2004.

**SECTION 30.21.(e)** The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist the Commission in its work. The House of Representatives' and the Senate's Directors of Legislative Assistants shall assign clerical staff to the Commission, and the expenses relating to the clerical employees shall be borne by the Commission. Subject to the approval of the

Legislative Services Commission, the Commission may meet in the Legislative Building or the Legislative Office Building.

**SECTION 30.21.(f)** The Commission may meet during a regular or extra session of the General Assembly, subject to approval of the President Pro Tempore of the Senate and the Speaker of the House of Representatives.

**SECTION 30.21.(g)** The Commission shall submit a report of the results of its study, including any legislative recommendations, to the General Assembly not later than January 1, 2005.

**SECTION 30.21.(h)** Of the funds appropriated to the General Assembly, the Legislative Services Commission shall allocate funds to implement the provisions of subsections (a) through (g) of this section.

## **PART XXXI. CAPITAL APPROPRIATIONS**

### **CAPITAL APPROPRIATIONS/GENERAL FUND**

**SECTION 31.1.** There is appropriated from the General Fund for the 2003-2004 fiscal year the following amount for capital improvements:

	<b>2003-2004</b>
Department of Environment and Natural Resources	
Water Resources Development Projects	\$27,601,000
<b>TOTAL CAPITAL APPROPRIATION</b>	<b>\$27,601,000</b>

### **WATER RESOURCES DEVELOPMENT PROJECT FUNDS**

**SECTION 31.2.(a)** The Department of Environment and Natural Resources shall allocate the funds appropriated in this act for water resources development projects to the following projects whose costs are as indicated:

<b>Name of Project</b>	<b>2003-2004</b>
(1) Wilmington Harbor Deepening	\$6,800,000
(2) Morehead City Harbor Maintenance	100,000
(3) Morehead City Harbor Section 933 Nourishment	4,661,000
(4) Wilmington Harbor Maintenance	2,700,000
(5) Manteo (Shallowbag) Bay Channel Maintenance	3,500,000
(6) John H. Kerr Reservoir Operations Evaluation	200,000
(7) Beaufort Harbor Maintenance Dredging	80,000
(8) Carolina Beach Renourishment (New Hanover County)	1,125,000
(9) Kure Beach Renourishment (New Hanover County)	1,177,000
(10) Ocean Isle Beach Renourishment (Brunswick County)	813,000
(11) Bogue Banks Shore Protection Study (Carteret County)	200,000
(12) Surf City/North Topsail Beach Protection Study	150,000
(13) Princeville Flood Control Study	400,000
(14) West Onslow Beach (Topsail)	75,000
(15) Deep Creek (Yadkin County) Watershed Management	1,500,000
(16) State Local Projects	2,500,000
(17) Currituck Sound Water Management Study	150,000
(18) Aquatic Weed Control, Lake Gaston and Statewide	300,000
(19) Swan Quarter (Hyde County) Flood Control Dikes	100,000

(20)	Little Sugar Creek Restoration (Mecklenburg County)	20,000
(21)	Neuse River Basin Feasibility Study	100,000
(22)	Environmental Restoration Projects	700,000
(23)	Projected Feasibility Studies	100,000
(24)	Planning Assistance to Communities	<u>150,000</u>

**TOTAL** **\$27,601,000**

**SECTION 31.2.(b)** Where the actual costs are different from the estimated costs under subsection (a) of this section, the Department may adjust the allocations among projects as needed. If any projects funded under subsection (a) of this section are delayed and the budgeted State funds cannot be used during the 2003-2004 fiscal year, or if the projects funded under subsection (a) of this section are accomplished at a lower cost, the Department may use the resulting fund availability to fund any of the following:

- (1) Corps of Engineers project feasibility studies.
- (2) Corps of Engineers projects whose schedules have advanced and require State-matching funds in fiscal year 2003-2004.
- (3) State-local water resources development projects.

Funds not expended or encumbered for these purposes shall revert to the General Fund at the end of the 2004-2005 fiscal year.

**SECTION 31.2.(c)** The Department shall make quarterly reports on the use of these funds to the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division, and the Office of State Budget and Management. Each report shall include all of the following:

- (1) All projects listed in this section.
- (2) The estimated cost of each project.
- (3) The date that work on each project began or is expected to begin.
- (4) The date that work on each project was completed or is expected to be completed.
- (5) The actual cost of each project.

The quarterly reports shall also show those projects advanced in schedule, those projects delayed in schedule, and an estimate of the amount of funds expected to revert to the General Fund.

**SECTION 31.2.(d)** Notwithstanding G.S. 143-23, if additional federal funds that require a State match are received for water resources projects or for beach renourishment projects for the 2003-2004 fiscal year, the Director of the Budget may, after consultation with the Joint Legislative Commission on Governmental Operations, transfer funds from General Fund appropriations to match the federal funds.

## **PROCEDURES FOR DISBURSEMENT OF CAPITAL FUNDS**

**SECTION 31.3.** The appropriations made by the 2003 General Assembly for capital improvements shall be disbursed for the purposes provided by this act. Expenditure of funds shall not be made by any State department, institution, or agency until an allotment has been approved by the Governor as Director of the Budget. The allotment shall be approved only after full compliance with the Executive Budget Act, Article 1 of Chapter 143 of the General Statutes. Prior to the award of construction contracts for projects to be financed in whole or in part with self-liquidating appropriations, the Director of the Budget shall approve the elements of the method of

financing of those projects including the source of funds, interest rate, and liquidation period. Provided, however, that if the Director of the Budget approves the method of financing a project, the Director shall report that action to the Joint Legislative Commission on Governmental Operations at its next meeting.

Where direct capital improvement appropriations include the purpose of furnishing fixed and movable equipment for any project, those funds for equipment shall not be subject to transfer into construction accounts except as authorized by the Director of the Budget. The expenditure of funds for fixed and movable equipment and furnishings shall be reviewed and approved by the Director of the Budget prior to commitment of funds.

Capital improvement projects authorized by the 2003 General Assembly shall be completed, including fixed and movable equipment and furnishings, within the limits of the amounts of the direct or self-liquidating appropriations provided, except as otherwise provided in this act. Capital improvement projects authorized by the 2003 General Assembly for the design phase only shall be designed within the scope of the project as defined by the approved cost estimate filed with the Director of the Budget, including costs associated with site preparation, demolition, and movable and fixed equipment.

#### **ENCUMBERED APPROPRIATIONS AND PROJECT RESERVE FUNDS**

**SECTION 31.4.** When each capital improvement project appropriated by the 2003 General Assembly, other than those projects under the Board of Governors of The University of North Carolina, is placed under a construction contract, direct appropriations shall be encumbered to include all costs for construction, design, investigation, administration, movable equipment, and a reasonable contingency. Unencumbered direct appropriations remaining in the project budget shall be placed in a project reserve fund credited to the Office of State Budget and Management. Funds in the project reserve may be used for emergency repair and renovation projects at State facilities with the approval of the Director of the Budget. The project reserve fund may be used, at the discretion of the Director of the Budget, to allow for award of contracts where bids exceed appropriated funds, if those projects supplemented were designed within the scope intended by the applicable appropriation or any authorized change in it, and if, in the opinion of the Director of the Budget, all means to award contracts within the appropriation were reasonably attempted. At the discretion of the Director of the Budget, any balances in the project reserve fund shall revert to the original source.

#### **EXPENDITURES OF FUNDS FROM THE RESERVE FOR REPAIRS AND RENOVATIONS**

**SECTION 31.5.** Of the funds in the Reserve for Repairs and Renovations for the 2003-2004 fiscal year, forty-six percent (46%) shall be allocated to the Board of Governors of The University of North Carolina for repairs and renovations pursuant to G.S. 143-15.3A, in accordance with guidelines developed in The University of North Carolina Funding Allocation Model for Reserve for Repairs and Renovations, as approved by the Board of Governors of The University of North Carolina, and fifty-four percent (54%) shall be allocated to the Office of State Budget and Management for repairs and renovations pursuant to G.S. 143-15.3A.

Notwithstanding G.S. 143-15.3A, the Board of Governors may allocate funds for the repair and renovation of facilities not supported from the General Fund if the Board determines that sufficient funds are not available from other sources and that

conditions warrant General Fund assistance. Any such finding shall be included in the Board's submission to the Joint Legislative Commission on Governmental Operations on the proposed allocation of funds.

Notwithstanding G.S. 143-15.3A, the Office of State Budget and Management shall allocate funds from the Reserve to complete the construction of State-owned facilities that are partially completed; the remainder of funds shall be allocated for other repairs and renovations projects.

The Board of Governors and the Office of State Budget and Management shall submit to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division of the Legislative Services Office, for their review, the proposed allocations of these funds. Subsequent changes in the proposed allocations shall be reported prior to expenditure to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division of the Legislative Services Office.

#### **PROJECT COST INCREASE**

**SECTION 31.7.** Upon the request of the administration of a State agency, department, or institution, the Director of the Budget may, when in the Director's opinion it is in the best interest of the State to do so, increase the cost of a capital improvement project. Provided, however, that if the Director of the Budget increases the cost of a project, the Director shall report that action to the Joint Legislative Commission on Governmental Operations at its next meeting. The increase may be funded from gifts, federal or private grants, special fund receipts, excess patient receipts above those budgeted at the University of North Carolina Hospitals at Chapel Hill, or direct capital improvement appropriations to that department or institution.

#### **NEW PROJECT AUTHORIZATION**

**SECTION 31.8.** Upon the request of the administration of any State agency, department, or institution, the Director of the Budget may authorize the construction of a capital improvement project not specifically authorized by the General Assembly if such project is to be funded by gifts, federal or private grants, special fund receipts, excess patient receipts above those budgeted at the University of North Carolina Hospitals at Chapel Hill, or self-liquidating indebtedness. Prior to authorizing the construction of a capital improvement project pursuant to this section, the Director shall consult with the Joint Legislative Commission on Governmental Operations.

#### **ADVANCE PLANNING OF CAPITAL IMPROVEMENT PROJECTS**

**SECTION 31.9.** Funds that become available by gifts, excess patient receipts above those budgeted at the University of North Carolina Hospitals at Chapel Hill, federal or private grants, receipts becoming a part of special funds by act of the General Assembly, or any other funds available to a State department or institution may be utilized for advance planning through the working drawing phase of capital improvement projects, upon approval of the Director of the Budget. The Director of the Budget may make allocations from the Advance Planning Fund for advance planning through the working drawing phase of capital improvement projects, except that this revolving fund shall not be utilized by the Board of Governors of The University of North Carolina or the State Board of Community Colleges.



**APPROPRIATIONS LIMITS/REVERSION OR LAPSE**

**SECTION 31.10.** Except as permitted in previous sections of this act, the appropriations for capital improvements made by the 2003 General Assembly may be expended only for specific projects set out by the 2003 General Assembly and for no other purpose. Construction of all capital improvement projects enumerated by the 2003 General Assembly shall be commenced, or self-liquidating indebtedness with respect to them shall be incurred, within 12 months following the first day of the fiscal year in which the funds are available. If construction contracts on those projects have not been awarded or self-liquidating indebtedness has not been incurred within that period, the direct appropriation for those projects shall revert to the original source, and the self-liquidating appropriation shall lapse; except that direct appropriations may be placed in a reserve fund as authorized in this act. This deadline with respect to both direct and self-liquidating appropriations may be extended with the approval of the Director of the Budget up to an additional 12 months if circumstances and conditions warrant such extension.

**INTENT TO FUND PARTIALLY COMPLETED CAPITAL PROJECTS**

**SECTION 31.11.** It is the intent of the General Assembly that future appropriations for capital improvements shall include funding for new projects only after full funding for partially completed projects has been restored.

**PART XXXII. REGULATORY FEE FOR UTILITIES COMMISSION****REGULATORY FEE FOR UTILITIES COMMISSION**

**SECTION 32.1.(a)** The percentage rate to be used in calculating the public utility regulatory fee under G.S. 62-302(b)(2) is twelve hundredths of a percent (0.12%) for each public utility's North Carolina jurisdictional revenues earned during each quarter that begins on or after July 1, 2003.

**SECTION 32.1.(b)** The electric membership corporation regulatory fee imposed under G.S. 62-302(b1) for the 2003-2004 fiscal year is two hundred thousand dollars (\$200,000).

**SECTION 32.1.(c)** This section becomes effective July 1, 2003.

**PART XXXIII. INSURANCE REGULATORY CHARGE****INSURANCE REGULATORY CHARGE**

**SECTION 33.1.(a)** The percentage rate to be used in calculating the insurance regulatory charge under G.S. 58-6-25 is five percent (5%) for the 2003 calendar year.

**SECTION 33.1.(b)** This section is effective when it becomes law.

**PART XXXIV. DEPARTMENT OF HEALTH AND HUMAN SERVICES FEES****DIVISION OF FACILITIES SERVICES FEES**

**SECTION 34.1.(a)** G.S. 131D-2(b)(1) reads as rewritten:

"(b) Licensure; inspections. –

(1) The Department of Health and Human Services shall inspect and license, under rules adopted by the Medical Care Commission, all adult care homes for persons who are aged or mentally or physically

disabled except those exempt in subsection (c) of this section. Licenses issued under the authority of this section shall be valid for one year from the date of issuance unless revoked earlier by the Secretary for failure to comply with any part of this section or any rules adopted hereunder. Licenses shall be renewed annually upon filing and the Department's approval of the renewal application. The Department shall charge each adult care home with six or fewer beds a nonrefundable annual license fee in the amount of one hundred twenty-five dollars (\$125.00). The Department shall charge each adult care home with more than six beds a nonrefundable annual license fee in the amount of one hundred seventy-five dollars (\$175.00) plus a nonrefundable annual per-bed fee of six dollars and twenty-five cents (\$6.25). A license shall not be renewed if outstanding ~~fees-fees, fines,~~ fines, and penalties imposed by the State against the home have not been paid. Fines and penalties for which an appeal is pending are exempt from consideration. The renewal application shall contain all necessary and reasonable information that the Department may by rule require. Except as otherwise provided in this subdivision, the Department may amend a license by reducing it from a full license to a provisional license for a period of not more than 90 days whenever the Department finds that:

- a. The licensee has substantially failed to comply with the provisions of Articles 1 and 3 of Chapter 131D of the General Statutes and the rules adopted pursuant to these Articles;
- b. There is a reasonable probability that the licensee can remedy the licensure deficiencies within a reasonable length of time; and
- c. There is a reasonable probability that the licensee will be able thereafter to remain in compliance with the licensure rules for the foreseeable future.

The Department may extend a provisional license for not more than one additional 90-day period upon finding that the licensee has made substantial progress toward remedying the licensure deficiencies that caused the license to be reduced to provisional status.

The Department may revoke a license whenever:

- a. The Department finds that:
  1. The licensee has substantially failed to comply with the provisions of Articles 1 and 3 of Chapter 131D of the General Statutes and the rules adopted pursuant to these Articles; and
  2. It is not reasonably probable that the licensee can remedy the licensure deficiencies within a reasonable length of time; or
- b. The Department finds that:
  1. The licensee has substantially failed to comply with the provisions of Articles 1 and 3 of Chapter 131D of the General Statutes and the rules adopted pursuant to these Articles; and

2. Although the licensee may be able to remedy the deficiencies within a reasonable time, it is not reasonably probable that the licensee will be able to remain in compliance with licensure rules for the foreseeable future; or

c. The Department finds that the licensee has failed to comply with the provisions of Articles 1 and 3 of Chapter 131D of the General Statutes and the rules adopted pursuant to these Articles, and the failure to comply endangered the health, safety, or welfare of the patients in the facility.

The Department may also issue a provisional license to a facility, pursuant to rules adopted by the Medical Care Commission, for substantial failure to comply with the provisions of this section or rules adopted pursuant to this section. Any facility wishing to contest the issuance of a provisional license shall be entitled to an administrative hearing as provided in the Administrative Procedure Act, Chapter 150B of the General Statutes. A petition for a contested case shall be filed within 30 days after the Department mails written notice of the issuance of the provisional license."

**SECTION 34.1.(b)** This section becomes effective October 1, 2003.

**SECTION 34.2.(a)** G.S. 131E-77(d) reads as rewritten:

"(d) Upon receipt of an application for a license, the Department shall issue a license if it finds that the applicant complies with the provisions of this Article and the rules of the Commission. The Department shall renew each license in accordance with the rules of the Commission. The Department shall charge the applicant a nonrefundable annual base license fee plus a nonrefundable annual per-bed fee as follows:

<u>Facility Type</u>	<u>Number of Beds</u>	<u>Base Fee</u>	<u>Per-Bed Fee</u>
<u>General Acute Hospitals:</u>	<u>1-49 beds</u>	<u>\$125.00</u>	<u>\$6.25</u>
	<u>50-99 beds</u>	<u>\$175.00</u>	<u>\$6.25</u>
	<u>100-199 beds</u>	<u>\$225.00</u>	<u>\$6.25</u>
	<u>200-399 beds</u>	<u>\$275.00</u>	<u>\$6.25</u>
	<u>400-699 beds</u>	<u>\$375.00</u>	<u>\$6.25</u>
	<u>700+ beds</u>	<u>\$475.00</u>	<u>\$6.25</u>
<u>Other Hospitals:</u>		<u>\$250.00</u>	<u>\$6.25"</u>

**SECTION 34.2.(b)** This section becomes effective October 1, 2003.

**SECTION 34.3.(a)** G.S. 131E-102(b) reads as rewritten:

"(b) Applications shall be available from the Department, and each application filed with the Department shall contain all necessary and reasonable information that the Department may by rule require. A license shall be granted to the applicant upon a determination by the Department that the applicant has complied with the provisions of this Part and the rules promulgated under this Part. The Department shall charge the applicant a nonrefundable annual license fee in the amount of two hundred twenty-five dollars (\$225.00) plus a nonrefundable annual per-bed fee of six dollars and twenty-five cents (\$6.25)."

**SECTION 34.3.(b)** This section becomes effective October 1, 2003.

**SECTION 34.4.(a)** G.S. 131E-138(c) reads as rewritten:

"(c) An application for a license shall be available from the Department, and each application filed with the Department shall contain all information requested by the

Department. A license shall be granted to the applicant upon a determination by the Department that the applicant has complied with the provisions of this Part and the rules promulgated by the Commission under this Part. The Department shall charge the applicant a nonrefundable annual license fee in the amount of one hundred seventy-five dollars (\$175.00)."

**SECTION 34.4.(b)** This section becomes effective October 1, 2003.

**SECTION 34.5.(a)** G.S. 131E-147(b) reads as rewritten:

"(b) Applications shall be available from the Department, and each application filed with the Department shall contain all necessary and reasonable information that the Department may by rule require. A license shall be granted to the applicant upon a determination by the Department that the applicant has complied with the provisions of this Part and the rules promulgated by the Commission under this Part. The Department shall charge the applicant a nonrefundable annual base license fee in the amount of three hundred fifty dollars (\$350.00) plus a nonrefundable annual per-operating room fee in the amount of twenty-five dollars (\$25.00)."

**SECTION 34.5.(b)** This section becomes effective October 1, 2003.

**SECTION 34.6.(a)** G.S. 131E-167(a) reads as rewritten:

"(a) Applications for certification shall be available from the Department, and each application filed with the Department shall contain all necessary and reasonable information that the Department may by rule require. A certificate shall be granted to the applicant for a period not to exceed ~~two years~~ one year upon a determination by the Department that the applicant has substantially complied with the provisions of this Article and the rules promulgated by the Department under this Article. The Department shall charge the applicant a nonrefundable annual certification fee in the amount of one hundred twenty-five dollars (\$125.00)."

**SECTION 34.6.(b)** This section becomes effective October 1, 2003.

**SECTION 34.7.(a)** Article 16 of Chapter 131E of the General Statutes is amended by adding the following new section to read:

**"§ 131E-269. Authorization to charge fee for certification of facilities suitable to perform abortions.**

The Department of Health and Human Services shall charge each hospital or clinic certified by the Department as a facility suitable for the performance of abortions, as authorized under G.S. 14-45.1, a nonrefundable annual certification fee in the amount of three hundred fifty dollars (\$350.00)."

**SECTION 34.7.(b)** This section becomes effective October 1, 2003.

**SECTION 34.8.(a)** G.S. 122C-23 is amended by adding the following new subsection to read:

"(h) The Department shall charge facilities licensed under this Chapter that have licensed beds a nonrefundable annual base license fee plus a nonrefundable annual per-bed fee as follows:

<u>Type of Facility</u>	<u>Number of Beds</u>	<u>Base Fee</u>	<u>Per-Bed Fee</u>
Facilities (non-ICF/MR):	6 or fewer beds	\$125.00	\$0
	More than 6 beds	\$175.00	\$6.25
ICF/MR Only:	6 or fewer beds	\$325.00	\$0
	More than 6 beds	\$325.00	\$6.25"

**SECTION 34.8.(b)** This section becomes effective October 1, 2003.

**SECTION 34.9.(a)** Part 3 of Article 6 of Chapter 131E of the General Statutes is amended by adding the following new section to read:

**"§ 131E-138.1. Licensure fees for nursing beds and adult care home beds in continuing care retirement communities.**

The Department shall charge continuing care retirement communities licensed under Article 64 of Chapter 58 of the General Statutes that have nursing home beds or adult care home beds licensed by the Department a nonrefundable annual base license fee in the amount of two hundred twenty-five dollars (\$225.00) plus a nonrefundable annual per-bed fee in the amount of six dollars and twenty-five cents (\$6.25)."

**SECTION 34.9.(b)** This section becomes effective October 1, 2003.

**SECTION 34.10.** Reserved.

**SECTION 34.11.(a)** Article 16 of Chapter 131E of the General Statutes is amended by adding the following new section to read:

**"§ 131E-267. Fees for departmental review of health care facility construction projects.**

The Department of Health and Human Services shall charge a fee for the review of each health care facility construction project to ensure that project plans and construction are in compliance with State law. The fee shall be charged on a one-time, per-project basis, as follows, and shall not exceed twelve thousand five hundred dollars (\$12,500) for any single project:

<b><u>Institutional Project</u></b>	<b><u>Project Fee</u></b>
<u>Hospitals</u>	<u>\$150.00 plus \$0.10/square foot of project space</u>
<u>Nursing Homes</u>	<u>\$125.00 plus \$0.08/square foot of project space</u>
<u>Ambulatory Surgical Facility</u>	<u>\$100.00 plus \$0.08/square foot of project space</u>
<u>Psychiatric Hospital</u>	<u>\$100.00 plus \$0.08/square foot of project space</u>
<u>Adult Care Home more than 7 beds</u>	<u>\$87.00 plus \$0.05/square foot of project space</u>

<b><u>Residential Project</u></b>	<b><u>Project Fee</u></b>
<u>Family Care Homes</u>	<u>\$87.00 flat fee</u>
<u>ICF/MR Group Homes</u>	<u>\$137.00 flat fee</u>
<u>Group Homes: 1-3 beds</u>	<u>\$50.00 flat fee</u>
<u>Group Homes: 4-6 beds</u>	<u>\$87.00 flat fee</u>
<u>Group Homes: 7-9 beds</u>	<u>\$112.00 flat fee</u>
<u>Other residential:</u>	
<u>More than 9 beds</u>	<u>\$112.00 plus \$0.038/square foot of project space."</u>

**SECTION 34.11.(b)** This section becomes effective October 1, 2003.

**DIVISION OF CHILD DEVELOPMENT FEES**

**SECTION 34.12.(a)** G.S. 110-90 reads as rewritten:

**"§ 110-90. Powers and duties of Secretary of Health and Human Services.**

The Secretary shall have the following powers and duties under the policies and rules of the Commission:

- (1) To administer the licensing program for child care facilities.
- (1a) To establish a fee for the licensing of child care centers. The fee does not apply to a religious-sponsored child care center operated pursuant

to a letter of compliance. The amount of the fee may not exceed the amount listed in this subdivision.

<u>Capacity of Center</u>	<u>Maximum Fee</u>
<u>12 or fewer children</u>	<u>\$ 35.00</u>
<u>13-50 children</u>	<u>\$125.00</u>
<u>51-100 children</u>	<u>\$250.00</u>
<u>101 or more children</u>	<u>\$400.00</u>

- (2) To obtain and coordinate the necessary services from other State departments and units of local government which are necessary to implement the provisions of this Article.
- (3) To employ the administrative personnel and staff as may be necessary to implement this Article where required services, inspections or reports are not available from existing State agencies and units of local government.
- (4) To issue a rated license to any child care facility which meets the standards established by this Article. The rating shall be based on program standards, education levels of staff, and compliance history of the child care facility.
- (5) To revoke the license of any child care facility that ceases to meet the standards established by this Article and rules on these standards adopted by the Commission, or that demonstrates a pattern of noncompliance with this Article or the rules, or to deny a license to any applicant that fails to meet the standards or the rules. These revocations and denials shall be done in accordance with the procedures set out in G.S. 150B and this Article and rules adopted by the Commission.
- (6) To prosecute or defend on behalf of the State, through the office of the Attorney General, any legal actions arising out of the administration or enforcement of this Article.
- (7) To promote and coordinate educational programs and materials for operators of child care facilities which are designed to improve the quality of child care available in the State, using the resources of other State and local agencies and educational institutions where appropriate.
- (8) Repealed by Session Laws 1997-506, s. 5.
- (9) To levy a civil penalty pursuant to G.S. 110-103.1, or an administrative penalty pursuant to G.S. 110-102.2, or to order summary suspension of a license. These actions shall be done in accordance with the procedures set out in G.S. 150B and this Article and rules adopted by the Commission.
- (10) To issue final agency decisions in all G.S. 150B contested cases proceedings filed as a result of actions taken under this Article including, but not limited to the denial, revocation, or suspension of a license or the levying of a civil or administrative penalty.
- (11) To issue a license to any child care arrangement that does not meet the definition of child care facility in G.S. 110-86 whenever the operator of the arrangement chooses to comply with the requirements of this Article and the rules adopted by the Commission and voluntarily

applies for a child care facility license. The Commission shall adopt rules for the issuance or removal of the licenses."

**SECTION 34.12.(b)** This section becomes effective October 1, 2003.

#### **DIVISION OF PUBLIC HEALTH FEE**

**SECTION 34.13.(a)** G.S. 130A-5 is amended by adding the following new subdivision to read:

"(15) To establish a fee not to exceed the cost of analyzing clinical Pap smear specimens sent to the State Laboratory by local health departments and State-owned facilities and for reporting the results of the analysis. This fee shall be in addition to the charge for the Pap smear test kit."

**SECTION 34.13.(b)** This section becomes effective July 1, 2003.

### **PART XXXV. FEES FOR DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES AND DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

#### **DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES FEES**

**SECTION 35.1.(a)** G.S. 113-34 reads as rewritten:

"§ 113-34. **Power to acquire lands as State forests, parks, etc.; and other recreational areas; donations or leases by United States; leases for recreational purposes; ~~rules governing public use purposes.~~**

(a) ~~The Governor of the State is authorized to~~ may, upon recommendation of the ~~Department~~ Department, accept gifts of land to the ~~State, the same~~ State to be held, protected, and administered by the Department as State forests, and to be used so as to demonstrate the practical utility of timber culture and water conservation, and as refuges for game. The gifts of land must be absolute except in cases where the mineral interest on the land has previously been sold. The Department ~~shall have the power to~~ may purchase lands in the name of the State, suitable chiefly for the production of timber, as State forests, for experimental, demonstration, educational, park, and protection purposes, using for ~~such these~~ these purposes any special appropriations or funds available. The Department ~~shall also have the power to~~ may acquire by condemnation under the provisions of Chapter 40A of the General Statutes, areas of land in different sections of the State ~~as that~~ that may in the opinion of the Department be necessary for the purpose of establishing or ~~developing, or both,~~ developing State forests, State ~~parks~~ parks, and other areas and developments essential to the effective operation of the State forestry and State park activities ~~with which the Department has been or may be entrusted under its charge.~~ charge. Condemnation proceedings shall be instituted and prosecuted in the name of the ~~State of North Carolina, State,~~ State, and any property so acquired shall be administered, ~~developed~~ developed, and used for experiment and demonstration in forest management, for public ~~recreation~~ recreation, and for other purposes authorized or required by law. ~~Provided, that before~~ Before any action or proceeding under this section can be exercised, the approval of the Governor and Council of State shall be obtained and filed with the clerk of the superior court in the county or counties where the property ~~may be situated, and until approval is obtained, the rights and powers conferred by this section shall not be exercised.~~ is located. The Attorney General ~~of the State is directed to see~~ shall ensure that all deeds to the State for land ~~mentioned~~

~~in~~acquired under this section are properly executed before the gift is accepted or payment of the purchase money is made.

(b) The Department may accept as gifts to the State of ~~North Carolina~~ any forest and submarginal farmland acquired by the federal government ~~as may be~~ that is suitable for the purpose of creating and maintaining ~~State-controlled~~ State forests, game refuges, public shooting grounds, State parks, State lakes, and other recreational areas, or to enter into longtime leases with the federal government for ~~such~~ the areas and administer them with funds ~~as may be~~ secured from their administration in the best interest of longtime public use, supplemented by any ~~necessary~~ appropriations ~~as may be~~ made by the General Assembly. The Department may segregate revenue derived from State hunting and fishing licenses, use permits, and concessions and other proper revenue secured through the administration of ~~such~~ State forests, game refuges, public shooting grounds, State parks, State lakes, and other recreational areas to be deposited in the State treasury to the credit of the Department to be used for the administration of these areas.

(c) The Department, with the approval of the Governor and Council of State, may enter into leases of lands and waters for State parks, State ~~lakes~~ lakes, and recreational purposes; ~~and the Department may construct, operate, and maintain on the lands and waters suitable public service facilities and conveniences and may charge and collect reasonable fees for each of the following:~~

- (1) ~~The erection, maintenance and use of docks, piers and other structures as may be permitted in or on the waters under its own rules.~~
- (2) ~~Fishing privileges in the waters, provided that the privileges shall be extended only to holders of bona fide North Carolina fishing licenses, and provided further that all State fishing laws and rules are complied with purposes.~~

(d) ~~The Department may make reasonable rules for the operation and use of boats or other craft on the surface of the waters but shall not charge or collect fees for the operation or use of boats or other craft.~~

(e) ~~The Department may make reasonable rules for the regulation of the public use of the lands and waters and of public service facilities and conveniences constructed thereon, and the rules shall have the force and effect of law and any violation of the rules shall constitute a Class 3 misdemeanor.~~

(f) The authority ~~herein~~ granted to the Department under this section is in addition to ~~other any authority now held and exercised by~~ granted to the Department Department under any other provision of law."

**SECTION 35.1.(b)** G.S. 113-35 reads as rewritten:

"§ 113-35. State timber may be sold by ~~Department of Environment and Natural Resources; Department;~~ forest nurseries; control over parks, etc.; parks; operation of public service facilities; concessions to private concerns. concerns; authority to charge fees and adopt rules.

(a) Timber and other products of ~~such~~ State forestlands ~~forests~~ may be sold, cut, and removed under rules of the Department. The Department ~~shall have authority to~~ may establish and operate forest tree nurseries and forest tree seed orchards. Forest tree seedlings and seed from these nurseries and seed orchards may be sold to landowners of the State for purposes of forestation under rules ~~of~~ adopted by the Department. When the Secretary determines that a surplus of seedlings or seed exists, this surplus may be sold, and ~~such~~ the sale shall be in conformity with the following priority of sale: first, to agencies of the federal government for planting in the State of



North Carolina; second, to commercial nurseries and nurserymen within this State; and third, without distinction, to federal agencies, to other states, and to recognized research organizations for planting either within or outside of this State. The Department shall make reasonable rules ~~for the regulation of governing~~ the use by the public of ~~such and~~ all State forests, State parks, State lakes, game ~~refuges-refuges,~~ and public shooting grounds under its ~~charge, which rules, after having been charge.~~ These rules shall be posted in conspicuous places on and adjacent to ~~such-the~~ properties of the State and at the courthouse of the county or counties in which ~~such-the~~ properties are ~~situated-shall~~ located. A violation of ~~such- these~~ these rules shall constitute is punishable as a Class 3 misdemeanor.

(a1) The Department may adopt rules under which the Secretary may issue a special-use permit authorizing the use of pyrotechnics in State parks in connection with public exhibitions. The rules shall require that experts supervise the use of pyrotechnics and that written authorization for the use of pyrotechnics be obtained from the board of commissioners of the county in which the pyrotechnics are to be used, as provided in G.S. 14-410. The Secretary may impose any conditions on a permit that the Secretary determines to be necessary to protect public health, safety, and welfare. These conditions ~~include, but are not limited to,~~ shall include a requirement that the permittee execute an indemnification agreement with the Department and obtain general liability insurance covering personal injury and property damage that may result from the use of pyrotechnics with policy limits ~~as determined by the Secretary.~~

(b) The Department may ~~construct and operate~~ construct, operate, and maintain within the State forests, State parks, State ~~lakes-lakes,~~ and ~~any~~ other areas under its charge suitable public service facilities and conveniences, and may charge and collect reasonable fees for the use of ~~same; it~~ these facilities and conveniences. The Department may also charge and collect reasonable fees ~~for~~ for each of the following:

- (1) The erection, ~~maintenance-maintenance,~~ and use of docks, ~~piers-piers,~~ and ~~such-any~~ other structures ~~as may be permitted in or on State lakes under its own rules;~~ rules adopted by the Department.
- (2) Hunting privileges on State forests and fishing privileges in State forests, State ~~parks-parks,~~ and State lakes, provided that ~~such-these~~ privileges shall be extended only to holders of ~~bona fide North Carolina State~~ State hunting and fishing licenses, ~~and provided further that licenses who comply with all State game and fish laws are complied with laws.~~
- (3) Vehicle access for off-road driving at the beach at Fort Fisher State Recreation Area.

(c) The Department may make reasonable rules for the operation and use of boats or other craft on the surface of the ~~said~~ waters under its charge but shall not ~~be authorized to~~ charge or collect fees for ~~such-their~~ operation or use.

(d) The Department may ~~also~~ grant to private individuals or companies concessions for operation of public service facilities for such periods and upon such conditions as the Department ~~shall deem~~ deems to be in the public interest. The Department may ~~make~~ adopt reasonable rules for the regulation of the use by the public of the lands and waters under its charge and of the public service facilities and conveniences herein authorized, which rules shall have the force and effect of law, and any authorized under this section. A violation of ~~such-these~~ these rules shall constitute is punishable as a Class 3 misdemeanor.

(e) The authority granted to the Department under this section is in addition to any authority granted to the Department under any other provision of law."

**SECTION 35.1.(c)** Notwithstanding G.S. 150B-21.1, the Department of Environment and Natural Resources may adopt temporary rules to establish fees under G.S. 113-35(b)(3), as amended by subsection (b) of this section, within six months after the effective date of this section.

**SECTION 35.1.(d)** This section becomes effective July 1, 2003.

**SECTION 35.1A.(a)** G.S. 113-35(b), as amended in Section 35.1(b) of this act, reads as rewritten:

"(b) The Department may construct, operate, and maintain within the State forests, State parks, State lakes, and other areas under its charge suitable public service facilities and conveniences, and may charge and collect reasonable fees for the use of these facilities and conveniences. The Department may also charge and collect reasonable fees for each of the following:

- (1) The erection, maintenance, and use of docks, piers, and any other structures permitted in or on State lakes under rules adopted by the Department.
- (2) Hunting privileges on State forests and fishing privileges in State forests, State parks, and State lakes, provided that these privileges shall be extended only to holders of State hunting and fishing licenses that comply with all State game and fish laws.
- (3) Vehicle access for off-road driving at the beach at Fort Fisher State Recreation Area.
- (4) The erection, maintenance, and use of a marina at Carolina Beach."

**SECTION 35.1A.(b)** G.S. 113-35(c), as amended in Section 35.1(b) of this act, reads as rewritten:

"(c) The Department may make reasonable rules for the operation and use of boats or other craft on the surface of the waters under its ~~charge, but shall not charge or collect fees for their operation or use.~~ charge. The Department may charge and collect reasonable fees for the use of boats and other watercraft that are purchased and maintained by the Department; however, the Department shall not charge a fee for the use or operation of any other boat or watercraft on these waters."

**SECTION 35.1A.(c)** The Department of Environment and Natural Resources may adopt temporary rules to increase fees under G.S. 113-35, as amended by subsections (a) and (b) of this section, for the use of public service facilities and conveniences located in State forests, State parks, State lakes, and other areas under the charge of the Division of Parks and Recreation.

**SECTION 35.1A.(d)** This section becomes effective July 1, 2003.

**SECTION 35.2.(a)** G.S. 130A-294.1(e) reads as rewritten:

"(e) A person who generates either one kilogram or more of any acute hazardous waste as listed in 40 C.F.R. § 261.30(d) or § 261.33(e) as revised 1 July 1987, or 1000 kilograms or more of hazardous waste, in any calendar month during the year beginning 1 July and ending 30 June shall pay an annual fee of ~~five hundred dollars (\$500.00).~~ one thousand dollars (\$1,000)."

**SECTION 35.2.(b)** G.S. 130A-294.1(f) reads as rewritten:

"(f) A person who generates 100 kilograms or more of hazardous waste in any calendar month during the year beginning 1 July and ending 30 June but less than 1000 kilograms of hazardous waste in each calendar month during that year shall pay an annual fee of ~~twenty-five dollars (\$25.00).~~ one hundred twenty-five dollars (\$125.00)."

**SECTION 35.2.(c)** This section becomes effective July 15, 2003.

#### **DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES FEES**

**SECTION 35.3.(a)** The budget for the Department of Agriculture and Consumer Services reflects increases made by the Department to fees established under G.S. 106-6.1 for animal disease diagnostic tests and services.

**SECTION 35.3.(b)** The Board of Agriculture may adopt temporary rules to increase the fee to be collected under G.S. 106-420 for nursery dealer certification.

**SECTION 35.3.(c)** This section becomes effective July 1, 2003.

#### **PESTICIDE FEES**

**SECTION 35.4.(a)** G.S. 143-452(b) reads as rewritten:

"(b) Applications for pesticide applicator license shall be in the form and shall contain the information prescribed by the Board. Each application shall be accompanied by a non-refundable fee of ~~thirty dollars (\$30.00)~~ fifty dollars (\$50.00) for each pesticide applicator's license. In addition, an annual inspection fee of ~~ten dollars (\$10.00)~~ twenty-five dollars (\$25.00) shall be submitted for each aircraft to be licensed. Should any aircraft fail to pass inspection, making it necessary for a second inspection to be made, the Board shall require an additional ~~ten dollar (\$10.00)~~ twenty-five-dollar (\$25.00) inspection fee. In addition to the required inspection, unannounced inspections may be made without charge to determine if equipment is properly calibrated and maintained in conformance with the laws and regulations. All aircraft licensed to apply pesticides shall be identified by a license plate or decal furnished by the Board at no cost to the licensee, which plate or decal shall be affixed on the aircraft in a location and manner prescribed by the Board. No applicator inspection or license fee, original or renewal, shall be charged to State agencies or local governments or their employees. Inspections of ground pesticide application equipment may be made. Any such equipment determined to be faulty or unsafe shall not be used for the purpose of applying a pesticide(s) until such time as proper repairs and/or alterations are made."

**SECTION 35.4.(b)** G.S. 143-448(b) reads as rewritten:

"(b) Applications for a pesticide dealer license shall be in the form and shall contain the information prescribed by the Board. Each application shall be accompanied by a non-refundable fee of ~~thirty dollars (\$30.00)~~ fifty dollars (\$50.00). All licenses issued under this Part shall expire on December 31 of the year for which they are issued."

**SECTION 35.4.(c)** G.S. 143-448(c) reads as rewritten:

"(c) The license for a pesticide dealer may be renewed annually upon application to the Board, accompanied by a fee of ~~thirty dollars (\$30.00)~~ fifty dollars (\$50.00) for each license, on or before the first day of January of the calendar year for which the license is issued."

**SECTION 35.4.(d)** G.S. 143-455(a) reads as rewritten:

"(a) No person shall perform services as a pest control consultant without first procuring from the Board a license. Applications for a consultant license shall be in the form and shall contain the information prescribed by the Board. The application for a license shall be accompanied by a non-refundable annual fee of ~~thirty dollars (\$30.00)~~ fifty dollars (\$50.00)."

**SECTION 35.4.(e)** G.S. 143-442(b) reads as rewritten:

"(b) The applicant shall pay an annual registration fee of ~~thirty dollars (\$30.00)~~ one hundred dollars (\$100.00) plus an additional annual assessment for each brand or

grade of pesticide registered. The annual assessment shall be fifty dollars (\$50.00) if the applicant's gross sales of the pesticide in this State for the preceding 12 months for the period ending September 30th were more than five thousand dollars (\$5,000.00) and twenty-five dollars (\$25.00) if gross sales were less than five thousand dollars (\$5,000.00). An additional two hundred dollars (\$200.00) delinquent registration penalty shall be assessed against the registrant for each brand or grade of pesticide which is marketed in North Carolina prior to registration as required by this Article. In the case of multi-year registration, the annual fee and additional assessment for each year shall be paid at the time of the initial registration. The Board shall give a pro rata refund of the registration fee and additional assessment to the registrant in the event that registration is canceled by the Board or by the United States Environmental Protection Agency."

**SECTION 35.4.(f)** This section becomes effective July 15, 2003.

## **PART XXXV-A. DEPARTMENT OF CULTURAL RESOURCES FEES**

### **DEPARTMENT OF CULTURAL RESOURCES FEES**

**SECTION 35A.1.** G.S. 105-129.35 reads as rewritten:

"§ **105-129.35. Credit for rehabilitating income-producing historic structure.**

(a) Credit. – A taxpayer who is allowed a federal income tax credit under section 47 of the Code for making qualified rehabilitation expenditures for a certified historic structure located in this State is allowed a credit equal to twenty percent (20%) of the expenditures that qualify for the federal credit. To claim the credit allowed by this subsection, the taxpayer must provide a copy of the certification obtained from the State Historic Preservation Officer verifying that the historic structure has been rehabilitated in accordance with this subsection.

(b) Allocation. – Notwithstanding the provisions of G.S. 105-131.8 and G.S. 105-269.15, a pass-through entity that qualifies for the credit provided in this section may allocate the credit among any of its owners in its discretion as long as the amount of credit allocated to an owner does not exceed the owner's adjusted basis in the pass-through entity, as determined under the Code, at the end of the taxable year in which the certified historic structure is placed in service. Owners to whom a credit is allocated are allowed the credit as if they had qualified for the credit directly. A pass-through entity and its owners must include with their tax returns for every taxable year in which an allocated credit is claimed a statement of the allocation made by the pass-through entity and the allocation that would have been required under G.S. 105-131.8 or G.S. 105-269.15.

(c) Definitions. – The following definitions apply in this section:

- (1) Certified historic structure. – Defined in section 47 of the Code.
- (2) Pass-through entity. – An entity or business, including a limited partnership, a general partnership, a joint venture, a Subchapter S Corporation, or a limited liability company, all of which is treated as owned by individuals or other entities under the federal tax laws, in which the owners report their share of the income, losses, and credits from the entity or business on their income tax returns filed with this State. For the purpose of this section, an owner of a pass-through entity is an individual or entity who is treated as an owner under the federal tax laws.

- (3) Qualified rehabilitation expenditures. – Defined in section 47 of the Code.
- (4) State Historic Preservation Officer. – Defined in G.S. 105-129.6."

**SECTION 35A.2.** G.S. 105-129.36(c) is recodified as G.S. 105-129.36A and reads as rewritten:

"§ **105-129.36A. Rules.** ~~Rules; fees.~~

(a) Rules. – The North Carolina Historical Commission, in consultation with the State Historic Preservation Officer, may adopt rules needed to administer the certification process required by this section.

(b) Fees. – The North Carolina Historical Commission, in consultation with the State Historic Preservation Officer, may adopt a schedule of fees for providing certifications required by this Article. In establishing the fee schedule, the Commission shall consider the administrative and personnel costs incurred by the Department of Cultural Resources. An application fee may not exceed one percent (1%) of the completed qualifying rehabilitation expenditures. The proceeds of the fees are receipts of the Department of Cultural Resources and must be used for performing its duties under this Article."

**SECTION 35A.3.** G.S. 105-129.36(a) reads as rewritten:

"(a) Credit. – A taxpayer who is not allowed a federal income tax credit under section 47 of the Code and who makes rehabilitation expenses for a State-certified historic structure located in this State is allowed a credit equal to thirty percent (30%) of the rehabilitation expenses. To qualify for the credit, the taxpayer's rehabilitation expenses must exceed twenty-five thousand dollars (\$25,000) within a 24-month period. To claim the credit allowed by this subsection, the taxpayer must ~~attach to the return~~ provide a copy of the certification obtained from the State Historic Preservation Officer verifying that the historic structure has been rehabilitated in accordance with this subsection."

**SECTION 35A.4.** Article 1 of Chapter 121 of the General Statutes is amended by adding a new section to read:

"§ **121-7.3. Admission fees.**

The Department of Cultural Resources may charge a reasonable admission fee to any museum administered by the Department. Admission fees collected under this section are receipts of the Department and shall be deposited in a nonreverting account. The Department shall retain unbudgeted receipts at the end of each fiscal year, beginning June 30, 2004, and shall deposit these receipts into the account. Funds in the account shall be used to support a portion of each museum's operation. The Secretary may adopt rules necessary to carry out the provisions of this section. The Department shall provide a quarterly report to the Joint Legislative Commission on Governmental Operations as to the Department's or museums' anticipated use of funds or expenditures of funds pursuant to this section."

**SECTION 35A.5.** This part becomes effective July 15, 2003.

## **PART XXXV-B. SECRETARY OF STATE FEES**

### **SECRETARY OF STATE FEES**

**SECTION 35B.1.(a)** G.S. 25-9-525(a) reads as rewritten:

"(a) Initial financing statement or other record: general rule. – Except as otherwise provided in subsection (e) of this section, the fee for filing and indexing a record under this Part is:

- (1) Thirty-eight dollars (\$38.00)~~Thirty dollars (\$30.00)~~ if the record is communicated in writing and consists of one or two pages;
- (2) Forty-five dollars (\$45.00) if the record is communicated in writing and consists of more than two pages, plus two dollars (\$2.00) for each page over 10 pages; and
- (3) Thirty dollars (\$30.00) if the record is communicated by another medium authorized by filing-office rule."

**SECTION 35B.1.(b)** G.S. 25-9-525(d) reads as rewritten:

"(d) Response to information request. – The fee for responding to a request for information from the filing office, including for communicating whether there is on file any financing statement naming a particular debtor, is:

- (1) Thirty-eight dollars (\$38.00)~~Thirty dollars (\$30.00)~~ if the request is communicated in writing; and
- (2) Thirty dollars (\$30.00) if the request is communicated by another medium authorized by filing-office rule.

Upon request the filing office shall furnish a copy of any filed financing statement or statement of assignment for a uniform fee of two dollars (\$2.00) per page. This subsection does not require that a fee be charged for remote access searching of the filing office database."

**SECTION 35B.1.(c)** This section becomes effective July 15, 2003.

**SECTION 35B.2.(a)** G.S. 78A-31(b) reads as rewritten:

"(b) With regard to any security that is covered under section 18(b)(4)(D) of the Securities Act of 1933 (15 U.S.C. § 77r(b)(4)(d)), the Administrator, by rule or order, may require the issuer to file a notice on SEC Form D (17 C.F.R. § 239.500) and a consent to service of process signed by the issuer no later than 15 days after the first sale of the security in this State. There is established a fee of ~~one hundred fifty dollars (\$150.00)~~ three hundred fifty dollars (\$350.00) to recover costs for filing required by this section."

**SECTION 35B.2.(b)** This section becomes effective July 15, 2003.

**SECTION 35B.3.(a)** G.S. 66-97(a) reads as rewritten:

"(a) The seller of every business opportunity shall file with the Secretary of State two copies of the disclosure statement required by G.S. 66-95, accompanied by a fee in the amount of ~~ten dollars (\$10.00)~~ two hundred fifty dollars (\$250.00) made payable to the Secretary of State, prior to placing any advertisement or making any other representations to prospective purchasers in this State. The seller shall update this filing as any material change in the required information occurs, but no less than annually."

**SECTION 35B.3.(b)** This section becomes effective July 15, 2003.

## **PART XXXVI. DEPARTMENT OF TRANSPORTATION FEES**

### **INCREASE DRIVERS LICENSE AND MOTORCYCLE ENDORSEMENT FEES TO FUND ADDITIONAL DIVISION OF MOTOR VEHICLE DRIVERS LICENSE EXAMINERS**

**SECTION 36.1.** G.S. 20-7(i) reads as rewritten:

"(i) Fees. – The fee for a regular drivers license is the amount set in the following table multiplied by the number of years in the period for which the license is issued:

<u>Class of Regular License</u>	<u>Fee For Each Year</u>
Class A	<del>\$3.75</del> <u>\$4.25</u>
Class B	<del>3.75</del> <u>4.25</u>
Class C	<del>2.50</del> <u>3.00</u>

The fee for a motorcycle endorsement is one dollar and ~~twenty-five cents (\$1.25)~~ seventy-five cents (\$1.75) for each year of the period for which the endorsement is issued. The appropriate fee ~~must~~ shall be paid before a person receives a regular drivers license or an endorsement."

**SECTION 36.2.** This part becomes effective November 1, 2003.

**PART XXXVI-A. JUSTICE AND PUBLIC SAFETY FEES**

**ARBITRATION FEE**

**SECTION 36A.1.** G.S. 7A-37.1 is amended by adding a new subsection to read:

"(c1) In cases referred to nonbinding arbitration as provided in this section, a fee of one hundred dollars (\$100.00) shall be assessed per arbitration, to be divided equally among the parties, to cover the cost of providing arbitrators. Fees assessed under this section shall be paid to the clerk of superior court in the county where the case was filed and remitted by the clerk to the State Treasurer."

**SUPERIOR COURT FEES ROUNDING**

**SECTION 36A.2.** G.S. 7A-308(a) reads as rewritten:

"(a) The following miscellaneous fees and commissions shall be collected by the clerk of superior court and remitted to the State for the support of the General Court of Justice:

- (1) Foreclosure under power of sale in deed of trust or mortgage ..... \$60.00  
If the property is sold under the power of sale, an additional amount will be charged, determined by the following formula: forty-five cents (.45) per one hundred dollars (\$100.00), or major fraction thereof, of the final sale price. If the amount determined by the formula is less than ten dollars (\$10.00), a minimum ten dollar (\$10.00) fee will be collected. If the amount determined by the formula is more than three hundred dollars (\$300.00), a maximum three hundred dollar (\$300.00) fee will be collected.
- (2) Proceeding supplemental to execution ..... 30.00
- (3) Confession of judgment ..... ~~22.50~~ 25.00
- (4) Taking a deposition ..... 10.00
- (5) Execution ..... ~~22.50~~ 25.00
- (6) Notice of resumption of former name ..... ~~7.50~~ 10.00
- (7) Taking an acknowledgment or administering an oath, or both, with or without seal, each certificate (except that oaths of office shall be administered to public officials without charge) ..... ~~\$1.50~~ 2.00
- (8) Bond, taking justification or approving ..... ~~7.50~~ 10.00
- (9) Certificate, under seal ..... 3.00
- (10) Exemplification of records ..... ~~7.50~~ 10.00

- (11) Recording or docketing (including indexing) any document  
 – first page .....6.00  
 – each additional page or fraction thereof.....25
- (12) Preparation of copies  
 – first page .....1.502.00  
 – each additional page or fraction thereof.....25
- (13) Preparation and docketing of transcript of judgment ..... 7.5010.00
- (14) Substitution of trustee in deed of trust ..... 7.5010.00
- (15) Execution of passport application – the amount allowed by federal law
- (16) Repealed by Session Laws 1989, c. 783, s. 2.
- (17) Criminal record search except if search is requested by an agency of the State or any of its political subdivisions or by an agency of the United States or by a petitioner in a proceeding under Article 2 of General Statutes Chapter 20 .....7.5010.00
- (18) Filing the affirmations, acknowledgments, agreements and resulting orders entered into under the provisions of G.S. 110-132 and G.S. 110-133 .....6.00
- (19) Repealed by Session Laws 1989, c. 783, s. 3.
- (20) Filing a motion to assert a right of access under G.S. 1-72.1 .....30.00."
- SECTION 36A.3.** This part becomes effective August 1, 2003.

## PART XXXVII. ADJUST LOCAL GOVERNMENT HOLD HARMLESS

### ADJUST LOCAL GOVERNMENT HOLD HARMLESS

**SECTION 37.1.** G.S. 105-521 reads as rewritten:

**"§ 105-521. Transitional local government hold harmless.**

(a) Definitions. – The following definitions apply in this section:

- (1) Local government. – A county or municipality that received a distribution of local sales taxes in the most recent fiscal year for which a local sales tax share has been calculated.
- (2) Local sales tax share. – A local government's percentage share of the two-cent (2¢) sales taxes distributed during the most recent fiscal year for which data are available.
- (3) Repealed reimbursement amount. – The total amount a local government would have been entitled to receive during the 2002-2003 fiscal year under G.S. 105-164.44C, 105-275.1, 105-275.2, 105-277.001, and 105-277.1A, if the Governor had not withheld any distributions under those sections.
- (4) Two-cent (2¢) sales taxes. – The first one-cent (1¢) sales and use tax authorized in Article 39 of this Chapter and in Chapter 1096 of the 1967 Session Laws, the first one-half cent (1/2¢) local sales and use tax authorized in Article 40 of this Chapter, and the second one-half cent (1/2¢) local sales and use tax authorized in Article 42 of this Chapter.

(b) Distributions. – On or before ~~September~~August 15, 2003, and ~~each September 15 thereafter, August 15, 2004~~, the Secretary must multiply each local government's local sales tax share by the estimated amount that all local governments would be expected to receive during the current fiscal year under G.S. 105-520 if every



county levied the tax under this Article for the year. If the resulting amount is less than one hundred percent (100%) of the local government's repealed reimbursement amount, the Secretary must pay the local government the difference, but not less than one hundred dollars (\$100.00).

On or before May 1, 2003, and ~~each May 1 thereafter~~, May 1, 2004, the Office of State Budget and Management and the Fiscal Research Division of the General Assembly must each submit to the Secretary and to the General Assembly a final projection of the estimated amount that all local governments would be expected to receive during the upcoming fiscal year under G.S. 105-520 if every county levied the tax under this Article for the fiscal year. If, after May 1 and before a distribution is made, a law is enacted that would affect the projection, an updated projection must be submitted as soon as practicable. If the Secretary does not use the lower of the two final projections to make the calculation required by this subsection, the Secretary must report the reasons for this decision to the Joint Legislative Commission on Governmental Operations within 60 days after receiving the projections.

(c) Source of Funds. – The Secretary must draw the funds distributed under this section from sales and use tax collections under Article 5 of this Chapter.

(d) Reports. – The Secretary must report to the Revenue Laws Study Committee by January 31, 2004, and ~~each January 31 thereafter~~, January 31, 2005, the amount distributed under this section for the current fiscal year."

**SECTION 37.2.** It is the intent of the General Assembly that the distribution under G.S. 105-521 will be extended through 2012.

## **PART XXXVII-A. UPDATE INTERNAL REVENUE CODE REFERENCE AND ADJUST BONUS DEPRECIATION AND ESTATE TAX**

### **UPDATE INTERNAL REVENUE CODE REFERENCE**

**SECTION 37A.1.** G.S. 105-228.90(b)(1b), as amended by S.L. 2003-25, reads as rewritten:

(b) Definitions. – The following definitions apply in this Article:

...

(1b) Code. – The Internal Revenue Code as enacted as of ~~January~~ June 1, 2003, including any provisions enacted as of that date which become effective either before or after that date."

### **ADJUST BONUS DEPRECIATION**

**SECTION 37A.2.** G.S. 105-134.6(c)(8) reads as rewritten:

"(c) Additions. – The following additions to taxable income shall be made in calculating North Carolina taxable income, to the extent each item is not included in taxable income:

...

(8) The applicable percentage of the amount allowed as a ~~thirty percent (30%)~~ special accelerated depreciation deduction under section 168(k) or section 1400L of the Code, as set out in the table below. In addition, a taxpayer who was allowed a ~~thirty percent (30%)~~ special accelerated depreciation deduction under section 168(k) or section 1400L of the Code in a taxable year beginning before January 1, 2002, and whose

North Carolina taxable income in that earlier year reflected that accelerated depreciation deduction must add to federal taxable income in the taxpayer's first taxable year beginning on or after January 1, 2002, an amount equal to the amount of the deduction allowed in the earlier taxable year. These adjustments do not result in a difference in basis of the affected assets for State and federal income tax purposes. The applicable percentage is as follows:

Taxable Year	Percentage
2002	100%
2003	70%
2004	<u>70%</u>
<u>2005</u> and thereafter	0%"

**SECTION 37A.3.** G.S. 105-130.5(a)(15) reads as rewritten:

"(a) The following additions to federal taxable income shall be made in determining State net income:

- ...
- (15) The applicable percentage of the amount allowed as a ~~thirty percent (30%) special~~ accelerated depreciation deduction under section 168(k) or section 1400L of the Code, as set out in the table below. In addition, a taxpayer who was allowed a ~~thirty percent (30%) special~~ accelerated depreciation deduction under section 168(k) or section 1400L of the Code in a taxable year beginning before January 1, 2002, and whose North Carolina taxable income in that earlier year reflected that accelerated depreciation deduction must add to federal taxable income in the taxpayer's first taxable year beginning on or after January 1, 2002, an amount equal to the amount of the deduction allowed in the earlier taxable year. These adjustments do not result in a difference in basis of the affected assets for State and federal income tax purposes. The applicable percentage is as follows:

<u>Taxable Year</u>	<u>Percentage</u>
2002	100%
2003	70%
2004	<u>70%</u>
<u>2005</u> and thereafter	0%"

#### ADJUST ESTATE TAX

**SECTION 37A.4.** Section 30C.3(b) of S.L. 2002-126 reads as rewritten:

"**SECTION 30C.3.(b)** This section is effective on and after January 1, 2002, and applies to the estates of decedents dying on or after that date. This section is repealed effective for the estates of decedents dying on or after ~~January 1, 2004.~~ July 1, 2005."

**SECTION 37A.5.** G.S. 105-32.2(b) reads as rewritten:

"(b) Amount. – The amount of the estate tax imposed by this section for estates of decedents dying on or after January 1, 2002, is the maximum credit for state death taxes allowed under section 2011 of the Code without regard to the phase-out and termination of that credit under subdivision (b)(2) and subsection (f) of that section. If any property in the estate is located in a state other than North Carolina, the amount of tax payable depends on whether the decedent was a resident of this State at death. If the decedent

was a resident of this State at death, the amount of tax due under this section is reduced by the lesser of the amount of the death tax paid the other state or an amount computed by multiplying the credit by a fraction, the numerator of which is the gross value of the estate that has a tax situs in another state and the denominator of which is the value of the decedent's gross estate. If the decedent was not a resident of this State at death, the amount of tax due under this section is an amount computed by multiplying the credit by a fraction, the numerator of which is the gross value of real property that is located in North Carolina plus the gross value of any personal property that has a tax situs in North Carolina and the denominator of which is the value of the decedent's gross estate. For purposes of this section, the gross value of property is its gross value as finally determined in the federal estate tax proceedings."

**SECTION 37A.6.** This part is effective when this act becomes law.

**PART XXXVIII. TEMPORARILY MAINTAIN STATE SALES TAX RATE**

**TEMPORARILY MAINTAIN STATE SALES TAX RATE**

**SECTION 38.1.** Section 34.13(c) of S.L. 2001-424 reads as rewritten:

"**SECTION 34.13.(c)** This section becomes effective October 16, 2001, and applies to sales made on or after that date. This section is repealed effective for sales made on or after July 1, ~~2005~~. ~~2003~~—This section does not affect the rights or liabilities of the State, a taxpayer, or another person arising under a statute amended or repealed by this section before the effective date of its amendment or repeal; nor does it affect the right to any refund or credit of a tax that accrued under the amended or repealed statute before the effective date of its amendment or repeal."

**PART XXXIX. TEMPORARILY MAINTAIN UPPER INCOME TAX RATE**

**TEMPORARILY MAINTAIN UPPER INCOME TAX RATE**

**SECTION 39.1.** Effective for taxable years beginning on or after January 1, 2006, G.S. 105-134.2(a) reads as rewritten:

"(a) A tax is imposed upon the North Carolina taxable income of every individual. The tax shall be levied, collected, and paid annually and shall be computed at the following percentages of the taxpayer's North Carolina taxable income.

- (1) For married individuals who file a joint return under G.S. 105-152 and for surviving spouses, as defined in section 2(a) of the Code:

<b>Over</b>	<b>Up To</b>	<b>Rate</b>
-0-	\$21,250	6%
\$21,250	\$100,000	7%
\$100,000	<del>\$200,000</del> <u>NA</u>	7.75%
<del>\$200,000</del>	NA	<del>8.25%</del>

- (2) For heads of households, as defined in section 2(b) of the Code:

<b>Over</b>	<b>Up To</b>	<b>Rate</b>
-0-	\$17,000	6%
\$17,000	\$80,000	7%
\$80,000	<del>\$160,000</del> <u>NA</u>	7.75%
<del>\$160,000</del>	NA	<del>8.25%</del>

- (3) For unmarried individuals other than surviving spouses and heads of households:

Over	Up To	Rate
-0-	\$12,750	6%
\$12,750	\$60,000	7%
\$60,000	\$120,000 <del>NA</del>	7.75%
\$120,000	NA	8.25%

- (4) For married individuals who do not file a joint return under G.S. 105-152:

Over	Up To	Rate
-0-	\$10,625	6%
\$10,625	\$50,000	7%
\$50,000	\$100,000 <del>NA</del>	7.75%
\$100,000	NA	8.25%"

**SECTION 39.2.** Section 34.18(b) of S.L. 2001-424 reads as rewritten:

"**SECTION 34.18.(b)** This section becomes effective for taxable years beginning on or after January 1, 2001, ~~and expires for taxable years beginning on or after January 1, 2004.~~2001. Notwithstanding G.S. 105-163.15, no addition to tax may be made under that statute for a taxable year beginning on or after January 1, 2001, and before January 1, 2002, with respect to an underpayment of individual income tax to the extent the underpayment was created or increased by this section."

**PART XXXIX-A. RESERVED.**

**PART XXXIX-B. CONFORM CHILD TAX CREDIT TO FEDERAL CREDIT**

**CONFORM CHILD TAX CREDIT TO FEDERAL CREDIT**

**SECTION 39B.1.** Reserved.

**SECTION 39B.2.** G.S. 105-151.24 reads as rewritten:

"§ **105-151.24. Credit for children.**

(a) Credit. – An individual who is allowed a federal child tax credit under section 24 of the Code for the taxable year and whose adjusted gross income (AGI), as calculated under the Code, is less than the amount listed below is allowed a credit against the tax imposed by this Part in an amount equal to seventy-five dollars (\$75.00) for each dependent child for whom the individual ~~was is allowed to deduct a personal exemption under section 151(c)(1)(B) of the Code~~ the federal credit for the taxable year:

<u>Filing Status</u>	<u>AGI</u>
Married, filing jointly	\$100,000
Head of Household	80,000
Single	60,000
Married, filing separately	50,000.

(b) Limitations. – A nonresident or part-year resident who claims the credit allowed by this section shall reduce the amount of the credit by multiplying it by the fraction calculated under G.S. 105-134.5(b) or (c), as appropriate. The credit allowed under this section may not exceed the amount of tax imposed by this Part for the taxable year reduced by the sum of all credits allowed, except payments of tax made by or on behalf of the taxpayer."

**SECTION 39B.3.** This part becomes effective for taxable years beginning on or after January 1, 2003.

**PART XL. RESERVED**

**PART XLI. RESERVED**

**PART XLII. RESERVED**

**PART XLIII. EQUALIZE INSURANCE TAX RATES ON ARTICLE 65 CORPORATIONS**

**EQUALIZE INSURANCE TAX RATES ON ARTICLE 65 CORPORATIONS**

**SECTION 43.1.** G.S. 105-228.5(d) reads as rewritten:

"(d) Tax Rates; Disposition. –

- (1) Workers' Compensation. – The tax rate to be applied to gross premiums, or the equivalent thereof in the case of self-insurers, on contracts applicable to liabilities under the Workers' Compensation Act is two and five-tenths percent (2.5%). The net proceeds shall be credited to the General Fund.
- (2) Other Insurance Contracts. – The tax rate to be applied to gross premiums on all other taxable contracts issued by insurers and to be applied to gross premiums and gross collections from membership dues, exclusive of receipts from cost plus plans, received by Article 65 corporations is one and nine-tenths percent (1.9%). The net proceeds shall be credited to the General Fund.
- (3) Additional Statewide Fire and Lightning Rate. – An additional tax shall be applied to gross premiums on contracts of insurance applicable to fire and lightning coverage, except in the case of marine and automobile policies, at the rate of one and thirty-three hundredths percent (1.33%). Twenty-five percent (25%) of the net proceeds of this additional tax shall be deposited in the Volunteer Fire Department Fund established in Article 87 of Chapter 58 of the General Statutes. The remaining net proceeds shall be credited to the General Fund.
- (4) Additional Local Fire and Lightning Rate. – An additional tax shall be applied to gross premiums on contracts of insurance applicable to fire and lightning coverage within fire districts at the rate of one-half of one percent (1/2 of 1%). The net proceeds shall be credited to the Department of Insurance for disbursement pursuant to G.S. 58-84-25.
- (5) ~~(Effective January 1, 2004) Article 65 Corporations. – The tax rate to be applied to gross premiums and/or gross collections from membership dues, exclusive of receipts from cost plus plans, received by Article 65 corporations is one percent (1%). The net proceeds shall be credited to the General Fund.~~
- (6) **(Effective January 1, 2004)** Health Maintenance Organizations. – The tax rate to be applied to gross premiums on insurance contracts issued by health maintenance ~~organizations~~ organizations, including directly operated health maintenance organizations authorized under

G.S. 58-67-95, is one percent (1%). The net proceeds shall be credited to the General Fund."

**SECTION 43.2.** G.S. 58-6-25(a) and (e) read as rewritten:

"(a) Charge Levied. – There is levied on each insurance company an annual charge for the purposes stated in subsection (d) of this section. The charge levied in this section is in addition to all other fees and taxes. The percentage rate of the charge is established pursuant to subsection (b) of this section. For each insurance company that is not an ~~Article 65 corporation~~ nor a health maintenance organization, the rate is applied to the company's premium tax liability for the taxable year. For ~~Article 65 corporations and health maintenance organizations~~, the rate is applied to a premium tax liability for the taxable year calculated as if the corporation or organization were paying tax at the rate in G.S. 105-228.5(d)(2). In determining an insurance company's premium tax liability for a taxable year, the following shall be disregarded:

- (1) Additional taxes imposed by G.S. 105-228.8.
- (2) The additional local fire and lightning tax imposed by G.S. 105-228.5(d)(4).
- (3) Any tax credits for guaranty or solvency fund assessments under G.S. 105-228.5A or G.S. 97-133(a).
- (4) Any tax credits allowed under Chapter 105 of the General Statutes other than tax payments made by or on behalf of the taxpayer.

...

(e) Definitions. – The following definitions apply in this section:

- (1) ~~Article 65 corporation. – Defined in G.S. 105-228.3.~~
- (2) Insurance company. – A company that pays the gross premiums tax levied in G.S. 105-228.5 and G.S. 105-228.8.
- (3) Insurer. – Defined in G.S. 105-228.3."

**SECTION 43.3.** Notwithstanding the provisions of G.S. 105-228.5(f), the following provisions apply to Article 65 Corporations, as defined in G.S. 105-228.3, for the 2004 and 2005 taxable years in lieu of the provisions of G.S. 105-228.5(f):

Article 65 corporations that are subject to the tax imposed by G.S. 105-228.5 and have an estimated premium tax liability for the 2004 or 2005 taxable year, not including the additional local fire and lightning tax, of ten thousand dollars (\$10,000) or more for business done in North Carolina shall remit two estimated tax payments with each payment equal to fifty percent (50%) of the taxpayer's estimated premium tax liability for the relevant taxable year. The first estimated payment is due on or before April 15 of the relevant year and the second estimated payment is due on or before June 15 of the relevant year. The taxpayer must remit the balance by the following March 15 in the same manner provided in G.S. 105-228.5(e) for annual returns.

An underpayment of an estimated payment required by this section bears interest at the rate established under G.S. 105-241.1(i). Any overpayment bears interest as provided in G.S. 105-266(b) and, together with the interest, must be credited to the taxpayer and applied against the taxes imposed upon the company under G.S. 105-228.5.

The penalties provided in Article 9 of Chapter 105 of the General Statutes apply to the estimated tax payments required by this section.

**SECTION 43.4.** This part is effective for taxable years beginning on or after January 1, 2004. The Commissioner of Insurance must make a certification to the Secretary of Revenue and to the Revisor of Statutes when there are no Article 65 corporations that offer medical service plans or hospital service plans. This part is

repealed effective for taxable years beginning on or after the January 1 immediately following the certification required by this section.

**PART XLIII-A. CLARIFY PROPERTY TAX EXCLUSION FOR PROPERTY USED TO REDUCE COTTON DUST**

**PROPERTY TAX EXCLUSION FOR PROPERTY USED TO REDUCE COTTON DUST**

**SECTION 43A.1.** G.S. 105-275(8)c. reads as rewritten:

"c. Tangible personal property that is used exclusively, or if being installed, is to be used exclusively, for the prevention or reduction of cotton dust inside a textile plant for the protection of the health of the employees of the plant, in accordance with occupational safety and health standards adopted by the State of North Carolina pursuant to Article 16 of G.S. Chapter 95. Notwithstanding the exclusive use requirement of this sub-subdivision, all parts of a ventilation or air conditioning system that are integrated into a system used for the prevention or reduction of cotton dust, except for chillers and cooling towers, are excluded from taxation under this sub-subdivision. The Department of Revenue shall adopt guidelines to assist the tax supervisors in administering this exclusion."

**SECTION 43A.2.** This part is effective when it becomes law.

**PART XLIV. CONTINUE USE TAX LINE ITEM ON INCOME TAX FORM**

**CONTINUE USE TAX LINE ITEM ON INCOME TAX FORM**

**SECTION 44.1.** Section 18 of S.L. 2000-120 reads as rewritten:

"**Section 18.** Section 7 of this act becomes effective January 1, 2001. Sections 10 and 11 of this act become effective for taxable years beginning on or after January 1, ~~2003-2005~~. The remainder of this act is effective when it becomes law."

**PART XLV. CONFORM TO STREAMLINED SALES AND USE TAX AGREEMENT**

**CONFORM TO STREAMLINED SALES AND USE TAX AGREEMENT**

**SECTION 45.1.** The Streamlined Sales and Use Tax Agreement is an historic multistate agreement designed to simplify and modernize sales and use tax collection and administration. The states and businesses involved in the Streamlined Sales Tax Project recognize that a simplified and uniform system saves businesses compliance and audit costs, while also saving states administrative costs and improving voluntary compliance, which should increase state collections. To participate in the Agreement, North Carolina must amend or modify some of its sales and use tax law to conform to the simplifications and uniformity in the Agreement. This part makes those necessary changes.

**SECTION 45.2.** G.S. 105-164.3 reads as rewritten:**"§ 105-164.3. Definitions.**

The following definitions apply in this Article:

- ...
- (4a) Computer. – An electronic device that accepts information in digital or similar form and manipulates it for a result based on a sequence of instructions.
- (4b) Computer software. – A set of coded instructions designed to cause a computer or automatic data processing equipment to perform a task.
- (5c) Custom computer software. – Computer software that is not prewritten computer software. The term includes a user manual or other documentation that accompanies the sale of the software.
- (5d) Delivered electronically. – Delivered to the purchaser by means other than tangible storage media.
- ...
- (7a) Direct mail. – Printed material delivered or distributed by the United States Postal Service or other delivery service to a mass audience or to addresses on a mailing list provided by the purchaser or at the direction of the purchaser when the cost of the items is not billed directly to the recipients. The term includes tangible personal property supplied directly or indirectly by the purchaser to the direct mail seller for inclusion in the package containing the printed material. The term does not include multiple items of printed material delivered to a single address.
- ...
- (8a) Drug. – A compound, substance, or preparation or a component of one of these that meets any of the following descriptions and is not food, a dietary supplement, or an alcoholic beverage:
- a. Is recognized in the United States Pharmacopoeia, Homeopathic Pharmacopoeia of the United States, or National Formulary.
  - b. Is intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease.
  - c. Is intended to affect the structure or function of the body.
- (8b) Durable medical equipment. – Equipment that meets all of the conditions of this subdivision. The term includes repair and replacement parts for the equipment. The term does not include mobility enhancing equipment.
- a. Can withstand repeated use.
  - b. Primarily and customarily used to serve a medical purpose.
  - c. Generally not useful to a person in the absence of an illness or injury.
  - d. Not worn in or on the body.
- (8c) Durable medical supplies. – Supplies related to use with durable medical equipment that are eligible to be covered under the Medicare or Medicaid program.
- (8d) Electronic. – Relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.
- ...



- (17) Lease or rental. – A transfer, for consideration, of the use but not the ownership of property to another for a period of time. A transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. The term does not include any of the following:
- a. A transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments.
  - b. A transfer of possession or control of property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price that does not exceed the greater of one hundred dollars (\$100.00) or one percent (1%) of the total required payments.
  - c. The providing of tangible personal property along with an operator for a fixed or indeterminate period of time if the operator is necessary for the equipment to perform as designed. For the purpose of this sub-subdivision, an operator must do more than maintain, inspect, or set up the tangible personal property.
- (17a) Load and leave. – Delivery to the purchaser by use of a tangible storage media where the tangible storage media is not physically transferred to the purchaser.
- ...
- (21a) Mobility enhancing equipment. – Equipment that meets all of the conditions of this subdivision. The term includes repair and replacement parts for the equipment. The term does not include durable medical equipment.
- a. Primarily and customarily used to provide or increase the ability of an individual to move from one place to another.
  - b. Appropriate for use either in a home or motor vehicle.
  - c. Not generally used by a person with normal mobility.
  - d. Not normally provided on a motor vehicle by a motor vehicle manufacturer.
- ...
- (25a) Over-the-counter drug. – A drug that can be dispensed under federal law without a prescription and is required by 21 C.F.R. § 210.66 to have a label containing a "Drug Facts" panel and a statement of its active ingredients.
- ...
- (28) Prepared food. – Food that meets at least one of the following conditions: conditions of this subdivision. Prepared food does not include food the retailer sliced, repackaged, or pasteurized but did not otherwise process.
- a. It is sold in a heated state or it is heated by the retailer.
  - b. It consists of two or more foods mixed or combined by the retailer for sale as a single item. This sub-subdivision does not include foods containing raw eggs, fish, meat, or poultry that require cooking by the consumer as recommended by the Food and Drug Administration to prevent food borne illnesses.

- c. It is sold with eating utensils provided by the retailer, such as plates, knives, forks, spoons, glasses, cups, napkins, and straws. ~~The term does not include food the retailer sliced, repackaged, or pasteurized but did not otherwise process.~~
- (29) ~~Prescription drug. — A drug that under federal law is required, prior to being dispensed or delivered, to be labeled with the following statement: "Caution: Federal law prohibits dispensing without prescription".~~ Prescription. — An order, formula, or recipe issued orally, in writing, electronically, or by another means of transmission by a physician, dentist, veterinarian, or another person licensed to prescribe drugs.
- (29a) Prewritten computer software. — Computer software, including prewritten upgrades, that is not designed and developed by the author or another creator to the specifications of a specific purchaser. The term includes software designed and developed by the author or another creator to the specifications of a specific purchaser when it is sold to a person other than the specific purchaser.
- ...
- (30a) Prosthetic device. — A replacement, corrective, or supporting device worn on or in the body that meets one of the conditions of this subdivision. The term includes repair and replacement parts for the device.
- a. Artificially replaces a missing portion of the body.  
 b. Prevents or corrects a physical deformity or malfunction.  
 c. Supports a weak or deformed portion of the body.
- ...
- (46) ~~Tangible personal property. — Personal property that may be seen, weighed, measured, felt, or touched or is in any other manner perceptible to the senses. The term does not include stocks, bonds, notes, insurance, or other obligations or securities, nor does it include water delivered by or through main lines or pipes either for commercial or domestic use or consumption. The term includes computer software delivered on a storage medium, such as a cd rom, a disk, or a tape. The term includes electricity, water, gas, steam, and prewritten computer software.~~

**SECTION 45.3.** G.S. 105-164.4B reads as rewritten:

"§ 105-164.4B. ~~Sales are sourced based on destination.~~ Sourcing principles.

- (a) General Principles. — The following principles apply in determining where to source the sale of a product. These principles apply regardless of the nature of the product.
- (1) Over-the-counter. — When a purchaser receives a product at a business location of the seller, the sale is sourced to that business location.
  - (2) Delivery to specified address. — When a purchaser receives a product at a location specified by the purchaser and the location is not a business location of the seller, the sale is sourced to the location where the purchaser receives the product.

- (3) Delivery address unknown. – When a seller of a product does not know the address where a product is received, the sale is sourced to the first address or location listed in this subdivision that is known to the seller:
- a. The business or home address of the purchaser.
  - b. The billing address of the purchaser or, if the product is a prepaid telephone calling service that authorizes the purchase of mobile telecommunications service, the location associated with the mobile telephone number.
  - c. The billing address of the purchaser.
- (b) Periodic Rental Payments. – When a lease or rental agreement requires recurring periodic payments, the payments are sourced as follows:
- (1) For leased or rented property, the first payment is sourced in accordance with the principles set out in subsection (a) of this section and each subsequent payment is sourced to the primary location of the leased or rented property for the period covered by the payment. This subdivision applies to all property except a motor vehicle, an aircraft, and transportation equipment.
  - (2) For leased or rented property that is a motor vehicle or an aircraft but is not transportation equipment, all payments are sourced to the primary location of the leased or rented property for the period covered by the payment.
  - (3) For leased or rented property that is transportation equipment, all payments are sourced in accordance with the principles set out in subsection (a) of this section.
- (c) Transportation Equipment Defined. – As used in the section, the term "transportation equipment" means any of the following used to carry persons or property in interstate commerce: a locomotive, a railway car, a commercial motor vehicle as defined in G.S. 20-4.01, or an aircraft. The term includes a container designed for use on the equipment and a component part of the equipment.
- (d) Exceptions. – This section does not apply to the following:
- (1) telecommunications——Telecommunications services.—— – Telecommunications services are sourced in accordance with G.S. 105-164.4C.
  - (2) Direct mail. – Direct mail that meets one of the conditions of this subdivision is sourced to the location where the property is delivered. In all other cases, direct mail is sourced in accordance with the principles set out in subsection (a) of this section.
    - a. Direct mail purchased pursuant to a direct pay permit.
    - b. When the purchaser provides the seller with information to show the jurisdictions to which the direct mail is to be delivered. "

**SECTION 45.4.** G.S. 105-164.6A(b) reads as rewritten:

- "(b) Mandatory Provisions. – The agreements must contain the following provisions:
- (1) The seller is not liable for use tax not paid to it by a customer.
  - (2) A customer's payment of a use tax to the seller relieves the customer of liability for the use tax.

- (3) The seller must remit all use taxes it collects from customers on or before the due date specified in the agreement, which may not be later than 31 days after the end of a quarter or other collection period. The collection period cannot be more often than annually if the seller's State and local tax collections are less than one thousand dollars (\$1,000) in a calendar year.
- (4) A seller who fails to remit use taxes collected on behalf of its customers by the due date specified in the agreement is subject to the interest and penalties provided in Article 9 of this Chapter with respect to the taxes to the same extent as if the seller were a retailer and were required to collect use taxes under this Article."

**SECTION 45.5.** G.S. 105-164.13 reads as rewritten:

"§ **105-164.13. Retail sales and use tax.**

The sale at retail, the use, storage or consumption in this State of the following tangible personal property is specifically exempted from the tax imposed by this Article:

- ...
- (12) Sales of any of the following items:
- a. ~~Therapeutic, prosthetic, or artificial devices, such as pulmonary respirators or medical beds, that are designed for individual personal use to correct or alleviate physical illness, disease, or incapacity and that are sold on the written prescription of a physician, dentist, or other professional person licensed to prescribe.~~
  - b. ~~Crutches, artificial limbs, artificial eyes, hearing aids, false teeth, eyeglasses ground on prescription of a physician or an optometrist.~~
  - c. ~~Orthopedic appliances designed to be worn by the purchaser or user.~~
  - d. ~~Durable medical equipment and related medical supplies that are covered under the Medicare or Medicaid program and are sold on either a certificate of medical necessity or a written prescription of a physician, dentist, or other professional person licensed to prescribe. This exemption applies whether or not the item is purchased by a Medicare or Medicaid beneficiary.~~
    - a. Prosthetic devices.
    - b. Mobility enhancing equipment sold on a prescription.
    - c. Durable medical equipment sold on prescription.
    - d. Durable medical supplies sold on prescription.
- (13) All of the following drugs, including ~~the constituent elements and ingredients used to produce the drugs, the their packaging materials, materials~~ and any instructions or information about the ~~product~~ drugs included in the package with ~~the drugs; them:~~
- a. ~~Prescription drugs.~~ Drugs required by federal law to be dispensed only on prescription.
  - b. ~~Nonprescription drugs sold on prescription of physicians, dentists, or veterinarians.~~ Over-the-counter drugs sold on prescription.
  - c. Insulin.
- ...

(43) ~~Custom computer software. —"Custom computer software" is software written in accordance with the specifications of a specific customer. The term includes a user manual or other documentation that accompanies the sale of the software. The term does not include prewritten software that can be installed and executed with no changes to the software's source code other than changes made to configure hardware or software. Custom computer software and the portion of prewritten computer software that is modified or enhanced if the modification or enhancement is designed and developed to the specifications of a specific purchaser and the charges for the modification or enhancement are separately stated.~~

(43a) Computer software delivered electronically or delivered by load and leave.

...

(51) Water delivered by or through main lines or pipes for either commercial or domestic use or consumption."

**SECTION 45.5A.** G.S. 105-164.13(50) reads as rewritten:

"(50) Fifty percent (50%) of the sales price of tangible personal property sold through a coin-operated vending machine, other than ~~closed container soft drinks and tobacco.~~"

**SECTION 45.6.** G.S. 105-164.13B reads as rewritten:

**"§ 105-164.13B. Food exempt from tax.**

~~Food is exempt from the taxes imposed by this Article, except as follows:~~

(1) ~~The following items are subject to tax:~~

- a. ~~Alcoholic beverages, as defined in 105-113.68.~~
- b. ~~Dietary supplements.~~
- c. ~~Food sold through a vending machine.~~

(2) ~~The following items are subject to tax, unless the items are purchased for home consumption and would be exempt if purchased under the Federal Food Stamp Program, 7 U.S.C. § 51:~~

- a. ~~Candy.~~
- b. ~~Prepared food.~~
- c. ~~Soft drinks.~~

(a) State Exemption. – Food is exempt from the taxes imposed by this Article unless the food is included in one of the subdivisions in this subsection. The following food items are subject to tax:

(1) Alcoholic beverages, as defined in G.S. 105-113.68.

(2) Dietary supplements.

(3) Food sold through a vending machine.

(4) Prepared food.

(5) Soft drinks.

(6) Candy, unless the item is purchased for home consumption and would be exempt if purchased under the Federal Food Stamp Program, 7 U.S.C. § 51.

(b) Reserved."

**SECTION 45.6A.** G.S. 105-164.13B, as amended by this act, is amended by adding a new subsection to read:

"(b) Administration of Local Food Tax. – The Secretary must administer local sales and use taxes imposed on food as if they were imposed under this Article. This applies to local taxes on food imposed under Subchapter VIII of this Chapter and under Chapter 1096 of the 1967 Session Laws."

**SECTION 45.6B.** G.S. 105-164.13B(a)(6), as enacted by this act, is repealed.

**SECTION 45.7.** G.S. 105-164.13C reads as rewritten:

"§ **105-164.13C. Sales and use tax holiday.**

(a) The taxes imposed by this Article do not apply to the following items of tangible personal property if sold between 12:01A.M. on the first Friday of August and 11:59 P.M. the following Sunday:

- (1) Clothing with a sales price of one hundred dollars (\$100.00) or less per item.
- (2) ~~School supplies, such as pens, pencils, paper, binders, notebooks, textbooks, reference books, book bags, lunchboxes, and calculators,~~ supplies with a sales price of one hundred dollars (\$100.00) or less per item.
- (3) ~~Computers, printers and printer supplies, and educational computer software,~~ Computers with a sales price of three thousand five hundred dollars (\$3,500) or less per item.
- (4) Sport or recreational equipment with a sales price of fifty dollars (\$50.00) or less per item.

(b) The exemption allowed by this section does not apply to the following:

- (1) Sales of clothing accessories or equipment.
- (2) Sales of protective equipment.
- (3) Sales of furniture.
- (4) ~~Sales involving a layaway contract or a similar deferred payment and delivery plan.~~
- (5) Sales of an item for use in a trade or business.
- (6) Rentals.

(c) ~~For the purpose of this section, "computer" means a central processing unit for personal use and any peripherals sold with it and any computer software installed at the time of purchase.~~

**SECTION 45.8.** G.S. 105-164.16(b1) reads as rewritten:

"(b1) Monthly. – A taxpayer who is consistently liable for more than one hundred dollars (\$100.00) but less than ten thousand dollars (\$10,000) a month in State and local sales and use taxes must file a return and pay the taxes due on a monthly basis. A monthly return is due by the ~~15<sup>th</sup>~~ 20<sup>th</sup> day of the month following the calendar month covered by the return."

**SECTION 45.9.** G.S. 105-164.27A(a) reads as rewritten:

"(a) Tangible Personal Property. – A direct pay permit for tangible personal property authorizes its holder to purchase any tangible personal property without paying tax to the seller and authorizes the seller to not collect any tax on a sale to the permit holder. A person who purchases tangible personal property under a direct pay permit issued under this subsection is liable for use tax due on the purchase. The tax is payable when the property is placed in use. A direct pay permit issued under this subsection does not apply to taxes imposed under G.S. 105-164.4(a)(1f) or G.S. 105-164.4(a)(4a).

A person who purchases direct mail may apply to the Secretary for a direct pay permit for the purchase of direct mail. The direct pay permit issued for direct mail does not apply to any purchase other than the purchase of direct mail.

A person who purchases tangible personal property whose tax status cannot be determined at the time of the purchase because of one of the reasons listed below may apply to the Secretary for a direct pay permit for tangible personal property:

- (1) The place of business where the property will be used is not known at the time of the purchase and a different tax consequence applies depending on where the property is used.
- (2) The manner in which the property will be used is not known at the time of the purchase and one or more of the potential uses is taxable but others are not taxable."

**SECTION 45.10.** G.S. 105-466(c) reads as rewritten:

"(c) Collection of the tax, and liability therefor, must begin and continue only on and after the first day of the month of either January or July, as set by the board of county commissioners in the resolution levying the tax. In no event may the tax be imposed, or the tax rate changed, earlier than the first day of the second succeeding calendar month after the date of the adoption of the resolution. The county must give the Secretary at least 90 days advance notice of a new tax levy or tax rate change. The applicability of a new tax or a tax rate change to purchases from printed catalogs becomes effective on the first day of a calendar quarter after a minimum of 120 days from the date the Secretary notifies the seller that receives orders by means of a catalog or similar publication of the new tax or tax rate change."

**SECTION 45.11.(a)** G.S. 105-469 reads as rewritten:

"§ 105-469. **Secretary to collect and administer local sales and use tax.**

(a) The Secretary shall collect and administer a tax levied by a county pursuant to this Article. As directed by G.S. 105-164.13B, taxes levied by a county on food are administered as if they were levied by the State under Article 5 of this Chapter. The Secretary must distribute local taxes levied on food to the taxing counties in accordance with G.S. 105-472 by including the taxes on food with local tax revenue that is not attributable to a particular county.

(b) The Secretary shall require retailers who collect use tax on sales to North Carolina residents to ascertain the county of residence of each buyer and provide that information to the Secretary along with any other information necessary for the Secretary to allocate the use tax proceeds to the correct taxing county."

**SECTION 45.11.(b)** Section 6 of Chapter 1096 of the 1967 Session Law is amended by adding the following sentence immediately after the first sentence in that section:

"As directed by G.S. 105-164.13B, taxes levied by Mecklenburg County on food are administered as if they were levied by the State under Article 5 of Chapter 105 of the North Carolina General Statutes."

**SECTION 45.11.(c)** The first paragraph of Section 9 of Chapter 1096 of the 1967 Session Laws, as amended, is amended by adding the following sentence immediately after the first sentence in that paragraph:

"The Secretary of Revenue shall distribute the taxes levied by Mecklenburg County on food to Mecklenburg County and municipalities within Mecklenburg County in accordance with G.S. 105-472 by including the taxes on food with local tax revenue that is not attributable to a particular county."

**SECTION 45.12.** Sections 45.2 through 45.5, Section 45.6, and Sections 45.8 through 45.10 of this act become effective July 15, 2003. Sections 45.6A, 45.7, 45.8, and 45.11 become effective October 1, 2003. Section 45.5A and Section 45.6B become effective January 1, 2004. The remainder of this part is effective when it becomes law.

## **PART XLV-A. ELIMINATE TOBACCO AND ALCOHOL DISCOUNTS**

### **ELIMINATE TOBACCO DISCOUNTS**

**SECTION 45A.1.(a)** G.S. 105-113.21 reads as rewritten:

"§ **105-113.21. ~~Discount; refund.~~Refund.**

(a) ~~Discount.~~—A distributor who files a timely report under G.S. 105-113.18 and who sends a timely payment may deduct from the amount due with the report a discount of four percent (4%). This discount covers expenses incurred in preparing the records and reports required by this Part, and the expense of furnishing a bond.

(b) Refund. — A distributor in possession of packages of stale or otherwise unsalable cigarettes upon which the tax has been paid may return the cigarettes to the manufacturer and apply to the Secretary for refund of the tax. The application shall be in the form prescribed by the Secretary and shall be accompanied by an affidavit from the manufacturer stating the number of cigarettes returned to the manufacturer by the applicant. The Secretary shall refund the tax paid on the unsalable cigarettes, less the discount allowed, to the applicant.cigarettes."

**SECTION 45A.1.(b)** G.S. 105-113.35(c) reads as rewritten:

"(c) Secondary Liability. — A retail dealer who acquires non-tax-paid tobacco products subject to the tax imposed by this section from a wholesale dealer is liable for any tax due on the tobacco products. ~~A retail dealer who is liable for tax under this subsection may not deduct a discount from the amount of tax due when reporting the tax.~~"

**SECTION 45A.1.(c)** G.S. 105-113.39 is repealed.

**SECTION 45A.1.(d)** This section is effective for reporting periods beginning on or after August 1, 2003.

### **ELIMINATE ALCOHOL DISCOUNTS**

**SECTION 45A.2.(a)** G.S. 105-113.85 is repealed.

**SECTION 45A.2.(b)** This section is effective for reporting periods beginning on or after August 1, 2003.

## **PART XLVI. REPAIR AND RENOVATIONS**

### **REPAIR AND RENOVATIONS**

**SECTION 46.1.** Repair and Renovation. — This section authorizes the issuance or incurrence of special indebtedness in a maximum aggregate principal amount of three hundred million dollars (\$300,000,000) to be used only in accordance with this section for the repair and renovation of State facilities and related infrastructure that are supported from the General Fund.

Proceeds of the Repair and Renovation special indebtedness shall be used only for the purposes and in accordance with the procedures provided in G.S. 143-15.3A, the Repairs and Renovations Reserve Account.



Except in the case of an emergency as provided in G.S. 143-15.3A, the Director of the Budget shall use the Repair and Renovations funds only for repairs and renovations that have been approved by an act of the General Assembly or, if the General Assembly is not in session, for repairs and renovations about which the Director of the Budget has first consulted with the Joint Legislative Commission on Governmental Operations under G.S. 143-15.3A(c). The Director of the Budget shall direct the State Treasurer to carry out the financing for repair and renovation projects selected pursuant to this section. Special indebtedness authorized by this section shall be issued or incurred only in accordance with Article 9 of Chapter 142 of the General Statutes, as enacted by this part.

**SECTION 46.2.** Article 9 of Chapter 142 of the General Statutes, as enacted by House Bill 643, 2003 General Assembly, is rewritten to read:

"Article 9.

"State Capital Facilities Finance Act.

**"§ 142-80. Short title.**

This Article may be cited as the State Capital Facilities Finance Act.

**"§ 142-81. Findings and purpose.**

The General Assembly finds as follows:

- (1) There is a continuing need for capital facilities for the State, many of which will continue to be provided on a "pay-as-you-go" basis by direct appropriations.
- (2) The State will also continue to provide capital facilities through the issuance of general obligation bonds.
- (3) There is a need, however, for the use of alternative financing methods, such as authorized in this Article, to facilitate the providing of capital facilities when circumstances and conditions warrant the providing of capital facilities through financing methods in addition to direct appropriations and the issuance of general obligation bonds.
- (4) The use of these alternative financing methods as authorized in this Article will provide financing flexibility to the State and permit the State to take advantage of changing financial and economic environments.

**"§ 142-82. Definitions.**

The following definitions apply in this Article:

- (1) Bonded indebtedness. – Limited obligation bonds and bond anticipation notes, including refunding bonds and notes, authorized to be issued under this Article.
- (2) Bonds or notes. – Limited obligation bonds and notes authorized to be issued under this Article.
- (3) Capital facility. – Any one or more of the following:
  - a. Any one or more buildings, utilities, structures, or other facilities or property developments, including streets and landscaping, and the acquisition of equipment, machinery, and furnishings in connection with these items.
  - b. Additions, extensions, enlargements, renovations, and improvements to existing buildings, utilities, structures, or other facilities or property developments, including streets and landscaping.
  - c. Land or an interest in land.

- d. Other infrastructure.
- e. Furniture, fixtures, equipment, vehicles, machinery, and similar items.
- (4) Certificates of participation. – Certificates or other instruments delivered by a special corporation evidencing the assignment of proportionate undivided interests in rights to receive payments pursuant to a financing contract.
- (5) Certificates of participation indebtedness. – Financing contract indebtedness incurred by the State under a plan of finance in which a special corporation obtains funds to pay the cost of a capital facility to be financed through the delivery by the special corporation of certificates of participation.
- (6) Cost. – Any of the following in financing the cost of capital facilities as authorized by this Article:
  - a. The cost of constructing, reconstructing, renovating, repairing, enlarging, acquiring, and improving capital facilities, including the acquisition of land, rights-of-way, easements, franchises, equipment, machinery, furnishings, and other interests in real or personal property acquired or used in connection with a capital facility.
  - b. The cost of engineering, architectural, and other consulting services.
  - c. The cost of providing personnel to ensure effective management of capital facilities.
  - d. Finance charges, reserves for debt service, and other types of reserves required pursuant to the terms of any special indebtedness or related documents, interest before and during construction or acquisition of a capital facility and, if considered advisable by the State Treasurer, for a period not exceeding two years after the estimated date of completion of construction or acquisition.
  - e. Administrative expenses and charges.
  - f. The cost of bond insurance, investment contracts, credit enhancement facilities and liquidity facilities, interest rate swap agreements or other derivative products, financial and legal consultants, and related costs of the incurrence or issuance of special indebtedness.
  - g. The cost of reimbursing the State, a State agency, or a special corporation for any payments made for any cost described in this subdivision.
  - h. Any other costs and expenses necessary or incidental to the purposes of this Article.
- (7) Credit facility. – An agreement that:
  - a. Is entered into by the State with a bank, savings and loan association, or other banking institution, an insurance company, reinsurance company, surety company, or other insurance institution, a corporation, investment banking firm, or other investment institution, or any financial institution or other

- similar provider of a credit facility, which provider may be located within or without the United States of America; and
- b. Provides for prompt payment of all or any part of the principal or purchase price (whether at maturity, presentment or tender for purchase, redemption, or acceleration), redemption premium, if any, and interest with respect to any special indebtedness payable on demand or tender by the owner in consideration of the State's agreeing to repay the provider of the credit facility in accordance with the terms and provisions of the agreement.
- (8) Department of Administration. – The North Carolina Department of Administration, created by Article 36 of Chapter 143 of the General Statutes or, if the Department is abolished or otherwise divested of its functions under this Article, the public body succeeding it in its principal functions or upon which are conferred by law the rights, powers, and duties given by this Article to the Department.
- (9) Financing contract. – A contract entered into pursuant to this Article to finance capital facilities and constituting a lease-purchase contract, installment-purchase contract, or other similar type installment financing contract. The term does not include, however, a contract that meets any one of the following conditions:
- a. It constitutes an operating lease under generally accepted accounting principles.
- b. It provides for the payment under the contract over its full term, including periods that may be added to the original term through the exercise of options to renew or extend, of an aggregate principal amount of not in excess of five thousand dollars (\$5,000) or any greater amount that may be established by the Council of State if the Council of State determines (i) the aggregate amount to be paid under these contracts will not have a significant impact on the State budgetary process or the economy of the State and (ii) the change will lessen the administrative burden on the State.
- c. It is executed and provides for the making of all payments under the contract, including payment to be made during any period that may be added to the original term through the exercise of options to renew or extend, in the same fiscal year.
- (10) Financing contract indebtedness. – Indebtedness incurred pursuant to a financing contract, including certificates of participation indebtedness.
- (11) Fiscal period. – A fiscal biennium or a fiscal year of the fiscal biennium.
- (12) Fiscal year. – The fiscal year of the State beginning on July 1 of one calendar year and ending on June 30 of the next calendar year.
- (13) Limited obligation bond. – A limited obligation bond issued pursuant to G.S. 142-88 and payable and secured as provided in G.S. 142-89.
- (14) Par formula. – A provision or formula adopted by the State to provide for the adjustment, from time to time, of the interest rate or rates borne or provided for by any special indebtedness, including any of the following:

- a. A provision providing for an adjustment so that the purchase price of special indebtedness in the open market would be as close to par as possible.
  - b. A provision providing for an adjustment based upon a percentage or percentages of a prime rate or base rate, which percentages may vary or be applied for different periods of time.
  - c. Any provision that the State Treasurer determines is consistent with this Article and will not materially and adversely affect the financial position of the State and the marketing of special indebtedness at a reasonable interest cost to the State.
- (15) Person. – An individual, a firm, a partnership, an association, a corporation, a limited liability company, or any other organization or group acting as a unit.
- (16) Special corporation. – Either of the following:
- a. A nonprofit corporation created under Chapter 55A of the General Statutes for the purpose of facilitating the incurrence of certificates of participation indebtedness by the State under this Article.
  - b. A private corporation or other entity issuing certificates of participation pursuant to this Article.
- (17) Special indebtedness. – Financing contract indebtedness and bonded indebtedness issued or incurred pursuant to this Article.
- (18) State. – The State of North Carolina, including any State agency.
- (19) State agency. – Any agency, institution, board, commission, bureau, council, department, division, officer, or employee of the State. The term does not include counties, municipal corporations, political subdivisions, local boards of education, or other local public bodies.
- (20) State Treasurer. – The incumbent Treasurer, from time to time, of the State.

**"§ 142-83. Authorization of special indebtedness; General Assembly approval.**

The State may incur or issue special indebtedness subject to the terms and conditions provided in this Article for the purpose of financing the cost of capital facilities that meet one of the following conditions:

- (1) The General Assembly has enacted legislation describing the capital facility and authorizing its financing by the incurrence or issuance of special indebtedness up to a specific maximum amount.
- (2) The General Assembly has enacted legislation authorizing the incurrence or issuance of special indebtedness up to a specific maximum amount for a specific category of capital facilities and the capital facility meets all of the conditions set in that legislation.

**"§ 142-84. Procedure for incurrence or issuance of special indebtedness.**

(a) Notice and Certificate. – Whenever the State or a State agency determines that special indebtedness is appropriate to finance capital facilities, it shall notify the Department of Administration. If the Department of Administration concurs, it shall provide written notice to the State Treasurer advising the State Treasurer of this determination.

After the filing of the notice and after any preliminary conference, the State Treasurer shall consult with the Office of State Budget and Management as to the

revenues expected by that Office to be available to pay all sums to come due on the special indebtedness during its term. If, after consulting with the Office of State Budget and Management, the State Treasurer determines by written certificate that it may be desirable to use special indebtedness to finance the capital facilities, the Department of Administration shall request the Council of State to give its preliminary approval of the use of special indebtedness to finance the capital facilities. The Department of Administration must promptly file copies of the notice and certificate required by this subsection with the Governor and the Council of State.

(b) Preliminary Approval. – The Council of State, upon receipt of the notice and certificate required by subsection (a) of this section, shall adopt a resolution granting or denying preliminary approval of the financing. A resolution granting preliminary approval may include any other terms, conditions, and restrictions the Council of State considers appropriate and not inconsistent with the provisions of this Article.

(c) Final Approval. – Before any special indebtedness may be incurred or issued pursuant to this Article, the Council of State must authorize the indebtedness by resolution, either as part of or separate from the resolution required by subsection (b) of this section. The resolution must do all of the following:

- (1) Authorize the providing of a particular capital facility or, in general terms, the types or classifications of capital facilities to be provided.
- (2) Set the aggregate principal amount or maximum principal amount of the special indebtedness authorized.
- (3) Set the maturity or maximum maturity of the special indebtedness authorized.
- (4) Set the rate, rates, or maximum rate of interest, which may be fixed or vary over a period of time, of the special indebtedness authorized.
- (5) Include any other conditions or matters not inconsistent with the provisions of this Article in the discretion of the Council of State, which may include the adoption or approvals as may be authorized in G.S. 142-88 and G.S. 142-89.

(d) Financing Terms. – No special indebtedness shall be incurred or issued without the prior written approval of the State Treasurer as provided in this subsection, which is in addition to the certificate given by the State Treasurer pursuant to subsection (a) of this section. In determining whether to approve the proposed financing, the State Treasurer may consider any factors the State Treasurer considers relevant in order to find and determine all of the following:

- (1) The amounts to become due under the special indebtedness, including the interest component or rate, are adequate and not excessive for the purpose proposed.
- (2) The increase, if any, in State revenues, including taxes, necessary to pay the sums to become due under the special indebtedness is not excessive.
- (3) The special indebtedness can be incurred or issued on terms desirable to the State.

(e) Designation of Facilities. – If the Council of State has authorized in general terms the types or classifications of capital facilities to be financed, then the particular capital facilities and the principal amount of special indebtedness to be incurred or issued for each particular capital facility shall be determined by the Department of Administration after considering any factors it considers relevant in order to determine

that the particular capital facility to be provided is desirable for the efficient operation of the State and its agencies and is in the best interests of the State.

(f) Type of Debt and Security. – In the absence of a determination by the Council of State, the State Treasurer, after consultation with the Department of Administration, shall determine the specific security offered and whether the special indebtedness to be issued or incurred shall be financing contract indebtedness, certificates of participation indebtedness, bonded indebtedness, or some combination of these.

(g) Administration. – The State Treasurer, after consultation with the Department of Administration, shall develop appropriate documents for use under this Article. The State Treasurer shall employ and designate the financial consultants, fiduciaries and other agents, underwriters, and bond attorneys to be associated with the incurrence or issuance of special indebtedness pursuant to this Article.

(h) Oversight by Joint Legislative Commission. – After all the requirements for approval and oversight provided in this section have been met, and at least five days before the issuance or incurrence of the special indebtedness, the State Treasurer must report to the Joint Legislative Commission on Governmental Operations. This report must include the details of the proposed special indebtedness, including the capital facilities to be financed by the indebtedness, the amount of the proposed indebtedness, the type of indebtedness to be issued or incurred, and any other information required by the Commission.

**"§ 142-85. Security; other requirements.**

(a) Security. – In order to secure (i) lease or installment payments to be made to the lessor, seller, or other person advancing moneys or providing financing under a financing contract, (ii) payment of the principal of and interest on bonded indebtedness, or (iii) payment obligations of the State to the provider of bond insurance, a credit facility, a liquidity facility, or a derivative agreement, special indebtedness may create any combination of the following:

- (1) A lien on or security interest in one or more, all, or any part of the capital facilities to be financed by the special indebtedness.
- (2) If the special indebtedness is to finance construction of improvements on real property, a lien on or security interest in all or any part of the land on which the improvements are to be located.
- (3) If the special indebtedness is to finance renovations or improvements to existing facilities or the installation of fixtures in existing facilities, a lien on or security interest in one or more, all, or any part of the facilities.

(b) Value of Security; Multiple Liens. – The estimated value of the property subject to the lien or security interest need not bear any particular relationship to the principal amount of the special indebtedness or other obligation it secures. This Article does not limit the right of the State to grant multiple liens or security interests in a capital facility or other property to the extent not otherwise limited by the terms of any special indebtedness.

(c) Governor's Budget. – Documentation relating to any special indebtedness may include provisions requesting the Governor to submit in the Governor's budget proposal or any amendments or supplements to the budget proposed appropriations necessary to make the payments required by the special indebtedness.

(d) Source of Repayment. – The payment of amounts payable by the State under special indebtedness or any related documents during any fiscal period shall be limited to funds appropriated for that purpose by the General Assembly in its discretion.

(e) No Deficiency Judgment or Pledge. – No deficiency judgment may be rendered against the State in any action for breach of any obligation under special indebtedness or any related documents. The taxing power of the State is not and may not be pledged directly or indirectly to secure any moneys due under special indebtedness or any related documents. In the event that the General Assembly does not appropriate sums sufficient to make payments required under any special indebtedness or any related documents, the net proceeds received from the sale or other disposition of the property subject to the lien or security interest shall be applied to satisfy these payment obligations in accordance with the deed of trust, security agreement, or other documentation relating to the lien or security interest. These net proceeds are appropriated for the purpose of making these payments. Any net proceeds in excess of the amount required to satisfy the obligations of the State under any special indebtedness or any related documents shall be paid to the State Treasurer for deposit to the General Fund.

(f) Nonsubstitution Clause. – A financing contract, issue of bonded indebtedness, or other related document shall not contain a nonsubstitution clause that restricts the right of the State to (i) continue to provide a service or conduct an activity or (ii) replace or provide a substitute for any capital facility.

(g) Protection of Lender. – Special indebtedness may contain any provisions for protecting and enforcing the rights and remedies of the person advancing moneys or providing financing under a financing contract, the owners of bonded indebtedness, or others to whom the State is obligated under special indebtedness or any related documents as may be reasonable and proper and not in violation of law. These provisions may include covenants setting forth the duties of the State in respect of any of the following:

- (1) The purposes to which the proceeds of special indebtedness may be applied.
- (2) The disposition and application of the revenues of the State, including taxes.
- (3) Insuring, maintaining, and other duties with respect to the capital facilities financed.
- (4) The disposition of any charges and collection of any revenues and administrative charges.
- (5) The terms and conditions of the issuance of additional special indebtedness.
- (6) The custody, safeguarding, investment, and application of all moneys.

(h) State Property Law Exception. – Chapter 146 of the General Statutes does not apply to any transfer of the State's interest in property authorized by this Article, whether to a deed of trust trustee or other secured party as security for special indebtedness, or to a purchaser of property in connection with a foreclosure or similar conveyance of property to realize upon the security for special indebtedness following the State's default on its obligations under the special indebtedness.

**"§ 142-86. Financing contract indebtedness.**

(a) Documentation. – Financing contract indebtedness shall not be incurred until all documentation providing for its incurrence has been approved by the State Treasurer after the State Treasurer has consulted with the Department of Administration.

(b) Interest Component. – A financing contract may provide for payments under the contract to represent principal and interest components of the cost of the capital facility to be financed, as determined by the State Treasurer.

(c) Bidding. – Financing contracts may be entered into pursuant to any applicable public or competitive bidding process or any private or negotiated process, to the extent required by applicable law and, if not so required, as may be determined by the Department of Administration after consulting with the State Treasurer.

(d) Party. – All financing contracts shall be executed on behalf of the State by the State Treasurer or, upon delegation by the State Treasurer after the State Treasurer's having approved the financing contract, by the Department of Administration.

(e) Credit Facility. – If the State Treasurer determines that it is in the best interest of the State, the State Treasurer may arrange for the delivery of a credit facility to secure payment under any financing contract. The State Treasurer may also provide that payments by the State representing the interest component of the payments to be made under a financing contract may be calculated based upon a fixed or a variable rate of interest.

(f) Terms and Conditions. – All other conditions set forth elsewhere in this Article with respect to financing contract indebtedness shall also be satisfied prior to incurring any financing contract indebtedness. To the extent applicable as conclusively determined by the State Treasurer, the provisions of G.S. 142-89, 142-90, and 142-91 apply to financing contract indebtedness.

**"§ 142-87. Additional requirements for certificates of participation indebtedness.**

(a) Documentation. – A financing contract shall not be used in connection with the delivery of certificates of participation by a special corporation until all documentation providing for its use has been approved by the State Treasurer after the State Treasurer has consulted with the Department of Administration. All documentation providing for the delivery and sale of certificates of participation must be approved by the State Treasurer.

(b) Procedure. – The special corporation, if used, shall request the approval of the State Treasurer in writing and shall furnish any information and documentation relating to the delivery and sale of the certificates of participation requested by the State Treasurer. In determining whether to approve the financing in the documentation, the State Treasurer shall consider the factors set forth in G.S. 142-84(d), as well as the effect of the proposed financing upon any scheduled or proposed sale of debt obligations by the State or a unit of local government in the State.

(c) Terms; Interest. – Certificates of participation may be sold by the State Treasurer in the manner, either at public or private sale, and for any price or prices that the State Treasurer determines to be in the best interest of the State and to effect the purposes of this Article, except that the terms of the sale must also be approved by the special corporation. Interest payable with respect to certificates of participation shall accrue at the rate or rates determined by the State Treasurer with the approval of the special corporation.

(d) Trust Agreement. – Certificates of participation may be delivered pursuant to a trust agreement or similar instrument with a corporate trustee approved by the State Treasurer, and the provisions of G.S. 142-89(h) apply to the trust agreement or similar instrument to the extent applicable.



(e) Other Conditions. – All other conditions set forth elsewhere in this Article with respect to certificates of participation indebtedness, including the conditions set forth in G.S. 142-86, must be satisfied before any certificates of participation indebtedness is incurred.

**"§ 142-88. Bonded indebtedness.**

The State Treasurer is authorized, by and with the consent of the Council of State as provided in this Article, to issue and sell at one time or from time to time bonds of the State to be designated "State of North Carolina Limited Obligation Bonds, Series \_\_\_\_\_" or notes of the State as provided in this Article, for the purpose of providing funds, with any other available funds, for the uses authorized in this Article.

**"§ 142-89. Issuance of limited obligation bonds and notes.**

(a) Terms and Conditions. – Bonds or notes may bear any dates; may be serial or term bonds or notes, or any combination of these; may mature in any amounts and at any times, not exceeding 40 years from their dates; may be payable at any places, either within or without the United States, in any coin or currency of the United States that at the time of payment is legal tender for payment of public and private debts; may bear interest at any rates, which may vary from time to time; and may be made redeemable before maturity, at the option of the State or otherwise as may be provided by the State, at any prices, including a price greater than the face amount of the bonds or notes, and under any terms and conditions, all as may be determined by the State Treasurer, by and with the consent of the Council of State.

(b) Signatures; Form and Denomination; Registration. – Bonds or notes may be issued in certificated or uncertificated form. If issued in certificated form, bonds or notes shall be signed on behalf of the State by the Governor or bear the Governor's facsimile signature, shall be signed by the State Treasurer or bear the State Treasurer's facsimile signature, and shall bear the great seal of the State or a facsimile of the seal impressed or imprinted on them. If bonds or notes bear the facsimile signatures of the Governor and the State Treasurer, the bonds or notes shall also bear a manual signature which may be that of a bond registrar, trustee, paying agent, or designated assistant of the State Treasurer. If any officer whose signature or facsimile signature appears on bonds or notes issued under this Article ceases to be that officer before the delivery of the bonds or notes, the signature or facsimile signature shall nevertheless have the same validity for all purposes as if the officer had remained in office until delivery of the bonds or notes. Bonds or notes issued under this Article may bear the facsimile signatures of persons who, at the actual time of the execution of the bonds or notes, were the proper officers to sign any bond or note although at the date of the bond or note those persons may not have been officers.

The form and denomination of bonds or notes, including the provisions with respect to registration of the bonds or notes and any system for their registration, shall be as prescribed by the State Treasurer in conformity with this Article.

(c) Manner of Sale; Expenses. – Subject to the approval by the Council of State as to the manner in which bonds or notes will be offered for sale, whether at public or private sale, whether within or without the United States, and whether by publishing notices in certain newspapers and financial journals, mailing notices, inviting bids by correspondence, negotiating contracts of purchase, or otherwise, the State Treasurer is authorized to sell bonds or notes at one time or from time to time at any rates of interest, which may vary from time to time, and at any prices, including a price less than the face amount of the bonds or notes, as the State Treasurer may determine. All expenses

incurred in the preparation, sale, and issuance of bonds or notes shall be paid by the State Treasurer from the proceeds of bonds or notes or other available moneys.

(d) Application of Proceeds. – The proceeds of any bonds or notes shall be used solely for the purposes for which the bonds or notes were issued and shall be disbursed in the manner and under the restrictions, if any, that the Council of State may provide in the resolution authorizing the issuance of, or in any trust agreement securing, the bonds or notes.

Any additional moneys that may be received by means of a grant or grants from the United States or any agency or department thereof or from any other source to aid in financing the cost of a capital facility may be disbursed, to the extent permitted by the terms of the grant or grants, without regard to any limitations imposed by this Article.

(e) Notes; Repayment. – By and with the consent of the Council of State, the State Treasurer is authorized to borrow money and to execute and issue notes of the State for the same, but only in any of the following circumstances and under the following conditions:

- (1) For anticipating the sale of bonds, the issuance of which the Council of State has approved, if the State Treasurer considers it advisable to postpone the issuance of the bonds.
- (2) For the payment of interest on or any installment of principal of any bonds then outstanding, if there are not sufficient funds in the State treasury with which to pay the interest or installment of principal as they respectively become due.
- (3) For the renewal of any loan evidenced by notes authorized in this Article.
- (4) For the purposes authorized in this Article.
- (5) For refunding bonds or notes or financing contract indebtedness as authorized in this Article.

Funds derived from the sale of limited obligation bonds or notes may be used in the payment of any bond anticipation notes issued under this Article. Funds provided by the General Assembly for the payment of interest on or principal of bonds shall be used in paying the interest on or principal of any notes and any renewals thereof, the proceeds of which have been used in paying interest on or principal of the bonds.

(f) Refunding Bonds and Notes. – By and with the consent of the Council of State, the State Treasurer is authorized to issue and sell refunding bonds and notes for the purpose of refunding special indebtedness and to pay the cost of issuance of the refunding bonds or notes. The refunding bonds and notes may be combined with any other issues of State bonds and notes issued pursuant to this Article. Refunding bonds or notes may be issued at any time prior to the final maturity of the debt or obligation to be refunded. The proceeds from the sale of any refunding bonds or notes shall be applied to the immediate payment and retirement of the obligations being refunded or, if not required for the immediate payment of the obligations being refunded, the proceeds shall be deposited in trust to provide for the payment and retirement of the obligations being refunded and to pay any expenses incurred in connection with the refunding. Money in a trust fund may be invested in (i) direct obligations of the United States government, (ii) obligations the principal of and interest on which are guaranteed by the United States government, (iii) to the extent then permitted by law, obligations of any agency or instrumentality of the United States government, or (iv) certificates of deposit issued by a bank or trust company located in the State if the certificates are secured by a pledge of any of the obligations described in (i), (ii), or (iii) above having an aggregate

market value, exclusive of accrued interest, equal at least to the principal amount of the certificates so secured. This section does not limit the duration of any deposit in trust for the retirement of obligations being refunded but that have not matured and are not presently redeemable or, if presently redeemable, have not been called for redemption.

(g) Security. – Payment of the principal of and the interest on bonds and notes shall be secured as provided in G.S. 142-85.

(h) Trust Agreement. – In the discretion of the State Treasurer, any bonds and notes issued under this Article may be secured by a trust agreement or similar instrument between the State and a corporate trustee or by a resolution of the Council of State providing for the appointment of a corporate trustee. The corporate trustee may be, in either case, any trust company or bank that has the powers of a trust company within or without the State. The trust agreement or similar instrument or resolution, hereinafter referred to as "the trust", may provide for security and pledges and assignments that are permitted under this Article and may provide for the granting of a lien or security interest as authorized by G.S. 142-85. The trust may contain any provisions for protecting and enforcing the rights and remedies of the owners of any bonds or notes issued under the trust that are reasonable and not in violation of law, including covenants setting forth the duties of the State with respect to the purposes for which bond or note proceeds may be applied, the disposition and application of the revenues or assets of the State, the duties of the State with respect to the capital facilities financed, the disposition of any charges and collection of any revenues and administrative charges, the terms and conditions of the issuance of additional bonds and notes, and the custody, safeguarding, investment, and application of all moneys. All bonds and notes issued under this Article pursuant to the same trust shall be equally and ratably secured as provided in the trust, without priority by reasons of number, dates of bonds or notes, execution, or delivery, in accordance with the provisions of this Article and of the trust. The trust may, however, provide that bonds or notes issued pursuant to the trust shall, to the extent and in the manner prescribed in the trust, be subordinated and junior in standing, with respect to the payment of principal and interest and to the security of the payment, to any other bonds or notes issued pursuant to the trust. It is lawful for any bank or trust company that may act as depository of the proceeds of bonds or notes, revenues, or any other money under this Article to furnish any indemnifying bonds or to pledge any securities that may be required by the State Treasurer. The trust may set out the rights and remedies of the owners of any bonds or notes and of any trustee and may restrict the individual rights of action by the owners. In addition to the foregoing, the trust may contain any other provisions the State Treasurer considers appropriate for the security of the owners of any bonds or notes. Expenses incurred in carrying out the provisions of the trust may be treated as a part of the cost of any capital facility or as an administrative charge and may be paid from the proceeds of the bonds or notes or from any other available funds.

**"§ 142-90. Variable rate demand bonds and notes and financing contract indebtedness.**

(a) In fixing the details of special indebtedness, the State Treasurer may make the special indebtedness subject to any of the following conditions:

- (1) It is payable from time to time on demand or tender for purchase by the owner thereof if a credit facility supports the special indebtedness, unless the State Treasurer specifically determines that a credit facility is not required upon a determination by the State Treasurer that the absence of a credit facility will not materially and adversely affect the

financial position of the State or the marketing of the bonds or notes or financing contract indebtedness at a reasonable interest cost to the State.

- (2) It is additionally supported by a credit facility.
- (3) It is subject to redemption or mandatory tender for purchase prior to maturity.
- (4) It bears interest at a rate or rates that may be fixed or may vary over any period of time, as may be provided in the proceedings providing for the issuance or incurrence of the special indebtedness, including any variations that may be permitted pursuant to a par formula.
- (5) It is the subject of a remarketing agreement under which an attempt is made to remarket special indebtedness to new purchasers before its presentment for payment to the provider of the credit facility or to the State.

(b) If the aggregate principal amount payable by the State under a credit facility is in excess of the aggregate principal amount of special indebtedness secured by the credit facility, whether as a result of the inclusion in the credit facility of a provision for the payment of interest for a limited period of time or the payment of a redemption premium or for any other reason, then the amount of authorized but unissued bonds or notes and financing contract indebtedness during the term of the credit facility shall not be less than the amount of the excess, unless the payment of the excess is otherwise provided for by agreement of the State executed by the State Treasurer.

**"§ 142-91. Other agreements.**

The State Treasurer may authorize, execute, obtain, or otherwise provide for bond insurance, investment contracts, credit and liquidity facilities, credit enhancement facilities, interest rate swap agreements and other derivative products, and any other related instruments and matters the State Treasurer determines are desirable in connection with the issuance of special indebtedness. The State Treasurer is authorized to employ and designate any financial consultants, underwriters, fiduciaries, and bond attorneys to be associated with any incurrence or issuance of special indebtedness under this Article as the State Treasurer considers appropriate.

**"§ 142-92. Tax exemption.**

Special indebtedness shall at all times be free from taxation by the State or any political subdivision or any of their agencies, excepting estate, inheritance, and gift taxes; income taxes on the gain from the transfer of the indebtedness; and franchise taxes. The interest component of any payments made by the State under special indebtedness, including the interest component of any certificates of participation, is not subject to taxation as to income.

**"§ 142-93. Investment eligibility.**

Special indebtedness are securities or obligations in which all of the following may invest, including capital in their control or belonging to them: public officers, agencies, and public bodies of the State and its political subdivisions; insurance companies, trust companies, investment companies, banks, savings banks, savings and loan associations, credit unions, pension or retirement funds, and other financial institutions engaged in business in the State; and executors, administrators, trustees, and other fiduciaries. Special indebtedness are securities or obligations that may properly and legally be deposited with and received by any officer or agency of the State or political subdivision of the State for any purpose for which the deposit of bonds, notes, or

obligations of the State or any political subdivision of the State is now or may later be authorized by law.

**"§ 142-94. Procurement of capital facilities.**

The provisions of Articles 3, 3B, 3C, 3D, and 8 of Chapter 143 of the General Statutes and any other laws or rules of the State that relate to the acquisition and construction of State property apply to the financing of capital facilities through the use of special indebtedness pursuant to this Article. This section does not apply to the construction and lease-purchase, including leases with an option to purchase at the end of the lease term for a nominal sum, of State office buildings pursuant to proposals submitted before the effective date of this Article in response to requests for proposals, to the extent any of those proposals, as they may be supplemented or amended, are approved by the Department of Administration and any of these leases or lease-purchase agreements are approved by the Council of State in accordance with G.S. 143-341(4)d2."

**SECTION 46.3.** G.S. 143-341(4) is amended by adding a new sub-subdivision to read:

"d2. To purchase or finance the purchase of buildings, utilities, structures, or other facilities or property developments, including streets and landscaping, the acquisition of land, equipment, machinery, and furnishings in connection therewith; additions, extensions, enlargements, renovations, and improvements to existing buildings, utilities, structures, or other facilities or property developments, including streets and landscaping; land or any interest in land; other infrastructure; furniture, fixtures, equipment, vehicles, machinery, and similar items; or any combination of the foregoing, through installment-purchase, lease-purchase, or other similar type installment financing agreements in the manner and to the extent provided in Article 9 of Chapter 142 of the General Statutes. Any contract entered into or any proceeding instituted contrary to the provisions of this paragraph is voidable in the discretion of the Council of State."

**SECTION 46.4.** Interpretation of Part. (a) Additional Method. – This part provides an additional and alternative method for the doing of the things authorized by this part and shall be regarded as supplemental and additional to powers conferred by other laws. Except where expressly provided, this part shall not be regarded as in derogation of any powers now existing. The authority granted in this part is in addition to other laws now or hereinafter enacted authorizing the State to issue or incur indebtedness.

**SECTION 46.4.(b)** Statutory References. – References in this part to specific sections or Chapters of the General Statutes are intended to be references to those sections or Chapters as they may be amended from time to time by the General Assembly.

**SECTION 46.4.(c)** Liberal Construction. – This part, being necessary for the health and welfare of the people of the State, shall be liberally construed to effect its purposes.

**SECTION 46.4.(d)** Severability. – If any provision of this part or its application to any person or circumstance is held invalid, that invalidity does not affect other provisions or applications of the part that can be given effect without the invalid provision or application, and to this end the provisions of this part are severable.

## **PART XLVI-A. STATE CAPITAL FACILITIES FINANCE**

### **ACQUIRE TWO PRIVATE PRISONS**

**SECTION 46A.1.(a)** Acquisition of Correctional Facilities. – In accordance with G.S. 142-83, as enacted by this act, this section authorizes the issuance or incurrence of financing contract indebtedness to be used to acquire two correctional facilities that the State currently leases located in Pamlico County and Avery County. The State Treasurer is authorized to give notice for, arrange, and consummate the purchase of these facilities in accordance with this section.

**SECTION 46A.1.(b)** Pamlico County Correctional Facility. – The State is authorized to acquire the correctional facility located in Pamlico County that the State currently leases from U.S. Corrections Corporation pursuant to the purchase option provision in the lease. Title to these facilities shall be held in the name of the State. The cost of acquiring the Pamlico County correctional facility shall be financed as provided in Article 9 of Chapter 142 of the General Statutes.

**SECTION 46A.1.(c)** Mountain View Correctional Facility. – The State is authorized to acquire the Mountain View Correctional Facility located in Avery County that the State currently leases from Correctional Properties Trust pursuant to the purchase option provision in the lease. Title to these facilities shall be held in the name of the State. The cost of acquiring the Mountain View Correctional Facility shall be financed as provided in Article 9 of Chapter 142 of the General Statutes.

**SECTION 46A.1.(d)** Authorization of Financing Contracts. – The State, with the prior approval of the State Treasurer and the Council of State as provided in Article 9 of Chapter 142 of the General Statutes, is authorized to execute and deliver one or more financing contracts in order to provide funds to the State to be used, together with any other available funds, to pay the cost of acquiring either or both of the Pamlico County correctional facility and the Mountain View Correctional Facility described in this section. Notwithstanding the provisions of G.S. 142-83, no maximum principal amount is required to be stated in this section authorizing the issuance or incurrence of financing contract indebtedness for these purposes.

**SECTION 46A.1.(e)** Transition. – Funds are appropriated in this act to the Department of Correction in each year of the 2003-2005 fiscal biennium to directly or indirectly pay the property taxes levied on the two facilities to be acquired pursuant to this section. The Department of Correction shall make these payments in the amounts appropriated for the biennium only and, depending upon the ownership status of each facility for each respective tax year, may recharacterize one or more of the payments as fees in lieu of the original obligation.

### **YOUTH DEVELOPMENT CENTERS**

**SECTION 46A.2.** In accordance with G.S. 142-83, as enacted by this act, this section authorizes the issuance or incurrence of up to six million seven hundred eighty thousand dollars (\$6,780,000) of financing contract indebtedness to be used for (i) design, construction drawings, and solicitation of bids for construction of three youth development centers totaling up to 500 beds to be operated by the Department of

Juvenile Justice and Delinquency Prevention and (ii) utility infrastructure and site work for one of the three centers. The State, with the prior approval of the State Treasurer and the Council of State as provided in Article 9 of Chapter 142 of the General Statutes, is authorized to execute and deliver one or more financing contracts in a maximum principal amount of six million seven hundred eighty thousand dollars (\$6,780,000) in order to provide funds to the State to be used, together with any other available funds, to pay these costs. The State Construction Office shall manage the planning and design of the youth development centers and shall administer funds provided pursuant to this section for planning and design.

#### **STRUCTURAL PEST CONTROL TRAINING FACILITY**

**SECTION 46A.3.** In accordance with G.S. 142-83, as enacted by this act, this section authorizes the issuance or incurrence of up to three hundred ten thousand dollars (\$310,000) of financing contract indebtedness to be used for constructing and equipping a structural pest control training facility to be located at North Carolina State University and comprising a classroom building along with a custom-built residential foundation to be used as a laboratory for techniques of subterranean termite treatment. The State, with the prior approval of the State Treasurer and Council of State as provided in Article 9 of Chapter 142 of the General Statutes, is authorized to execute and deliver one or more financing contracts in a maximum principal amount of three hundred ten thousand dollars (\$310,000) in order to provide funds to the State to be used, together with any other available funds, to pay these costs.

#### **PART XLVII. LEASE PURCHASE NEW PRISONS**

##### **LEASE-PURCHASE NEW PRISONS**

**SECTION 47.1.** G.S. 148-37.2 reads as rewritten:

"§ **148-37.2. Lease-purchase of three-prison facilities.**

(a) Authorization. – The Secretary of Correction may, as provided in this section, enter contracts with private for-profit or nonprofit firms for the construction of ~~three~~ close security correctional facilities ~~totaling up to 3,000 cells described in subsection (a1) of this section~~ to be operated by the Department pursuant to a lease that contains a schedule for purchase of the facilities over a period of up to 20 years.

The State, with the prior approval of the Council of State and the State Treasurer as provided in this section, is authorized to execute and deliver one or more lease-purchase agreements with a special nonprofit corporation providing for the lease-purchase by the State of the Projects from the special nonprofit corporation in connection with and under an arrangement whereby certificates of participation are sold and delivered by the special nonprofit corporation in order to provide funds to pay the purchase price of the Projects. The Projects will be constructed by selected contractors designated to the special nonprofit corporation by the State Property Office of the Department of Administration in consultation with the Department of Correction. ~~The selected contractors will be responsible for arranging for and obtaining their own construction financing, which will consist solely of private funds.~~ The Projects will be sold to the special nonprofit corporation, with the purchase price paid by the special nonprofit corporation from the proceeds of the certificates of participation. The State may lease the real property upon which the Projects will be located, if owned by the State, to the selected contractors constructing the Projects and to the special nonprofit corporation for nominal consideration.

- (a1) Facilities Authorized. – The following facilities are authorized under this section:
- (1) 2001 Facilities. – Three close security correctional facilities totaling up to 3,000 cells.
  - (2) 2003 Facilities. – Three close security correctional facilities substantially identical to the facilities described in subdivision (1) of this subsection and totaling up to 3,000 cells. If the State and the special nonprofit corporation are able to negotiate a contract for one or more of these facilities with the construction contractor that constructed the facilities described in subdivision (1) of this subsection on terms that are reasonable and desirable to the State as determined by the State Treasurer, the Secretary of Administration, and the Council of State, then a request for proposals under subsection (c) of this section is not required. The remaining provisions of this section continue to apply.
- (b) Definitions. – The following definitions apply in this section:
- (1) Certificates of participation. – Certificates or other instruments delivered by a special nonprofit corporation as provided in this section evidencing the assignment of proportionate and undivided interests in the rights to receive lease payments to be made by the State pursuant to a lease-purchase agreement.
  - (2) Construction contract agreement. – A-~~Either of the following:~~
    - a. A contract between the Department of Correction and the selected contractors for construction of the Projects, under which the selected contractors will be responsible for arranging for and obtaining their own construction financing, which will consist solely of private funds.
    - b. A contract between the special nonprofit corporation and the selected contractors for construction of the Projects, but only if the contract has provisions sufficient to carry out the requirements of the last paragraph of subsection (c) of this section. The Secretary of Correction shall determine the sufficiency of the contract and shall approve the contract only if it is sufficient.
  - (3) Lease-purchase agreement. – A lease-purchase agreement entered into pursuant to this section, under which the State will lease the Projects from the special nonprofit corporation, with option to purchase.
  - (4) Projects. – ~~Three close security correctional facilities providing up to 3,000 cells~~ Facilities described in subsection (a1) of this section to be constructed by selected contractors, sold to the special nonprofit corporation, and leased to the State pursuant to this section.
  - (5) Purchase agreement. – A contract under which the special nonprofit corporation will purchase the Projects from the selected contractors.
  - (6) Selected contractors. – One or more private firms selected to construct the Projects.
  - (7) Special nonprofit corporation. – A nonprofit corporation created under Chapter 55A of the General Statutes and designated by the State Treasurer for entering into the transactions contemplated by this section.



(c) Request for Proposals. – The Secretary of Correction may issue a request for proposals to private firms for the private firms to construct the Projects in accordance with plans and specifications developed by the Department of Correction and reviewed by the Office of State Construction. ~~The request for proposals shall provide for the option of proposing on one or more of the facilities, and shall require each proposer to provide a separate proposal on a single facility of up to 1,000 cells. It is the intent of the General Assembly that the State may decide to accept proposals for only one, for two, or for all three facilities.~~

The Secretary of Correction shall make recommendations to the State Property Office of the Department of Administration on the final award decision. The Department of Correction and the State Property Office of the Department of Administration shall consult with the Joint Legislative Commission on Governmental Operations before making the final award decision. The Department of Administration shall make the final award decision, which shall then be subject to the approval of the Council of State. If the contract for construction of the 2003 facilities is entered into with the construction contractor who constructed the 2001 facilities as provided by subdivision (a1)(2) of this section, the general terms and conditions of the construction contract for the 2003 facilities shall be substantially similar to the terms and conditions of the construction contracts for the construction of the 2001 facilities, including, without limitation, terms and conditions regarding the activities, performance, and construction standards required of the contractor, the arrangements for selection and retention of subcontractors by the contractor, and the responsibility of the contractor for the performance by the selected subcontractors. The construction contract for the 2003 facilities may, however, contain any changes from the construction contracts for the 2001 facilities that may be necessary or desirable to reflect the financing arrangements for the 2003 facilities, including provisions for the periodic payment of construction costs based upon construction progress.

The Department of Correction will enter into a construction contract agreement with the selected contractors for the construction of the ~~Projects~~. Projects or, alternatively, the construction contract may be entered into with the selected contractor by the special nonprofit corporation, with the approval of the Department of Correction. The special nonprofit corporation will enter into a purchase agreement with the selected contractors for the sale of the ~~constructed~~ Projects to the special nonprofit corporation. With respect to the 2003 facilities, the purchase agreement may provide for the periodic payment by the special nonprofit corporation to the selected contractor of portions of the purchase price during the construction of the 2003 facilities on the basis of construction progress, rather than a payment of the entire purchase price upon delivery of the 2003 facilities. The Department of Correction shall furnish plans and specifications for review by the State Construction Office. Construction contract agreements entered into under this section shall provide that the Department of Correction and the Office of State Construction shall inspect and review each facility during construction to ensure and determine jointly that the facility is suitable for use as a correctional facility and for future acquisition by the State. The Department of Correction may contract with a design consortium for construction administration services.

(d) Approval of Lease-Purchase Agreement. – A lease-purchase agreement may not be entered into pursuant to this section unless the following conditions are met before the lease-purchase agreement is entered into: (i) the Council of State, by

resolution, approves the execution and delivery of the lease-purchase agreement, and (ii) the State Treasurer approves the lease-purchase agreement and all other documentation related to it, including any leasehold deed of trust or trust agreement in connection with it. The resolution of the Council of State may include any matters the Council of State determines. In determining whether to approve the lease-purchase agreement, the State Treasurer may consider any factors as the State Treasurer considers relevant in order to find and determine that all of the following conditions are met:

- (1) The principal amount to be financed under the lease-purchase agreement is adequate and not excessive for the purpose of paying the cost of the Projects.
  - (2) The increase, if any, in State revenues necessary to pay the sums to become due under the lease-purchase agreement is not excessive.
  - (3) The lease-purchase agreement can be entered into on terms desirable to the State.
  - (4) The sale of certificates of participation will not have an adverse effect on any scheduled or proposed sale of obligations of the State or any State agency or of any unit of local government in the State.
- (e) Terms and Conditions. – The following provisions apply to a lease-purchase agreement entered into under this section:
- (1) In order to secure the performance by the State of its obligations under the lease-purchase agreement, the lease-purchase agreement may require the eviction of the State from the occupancy of one or more of the Projects in the event that the State breaches its obligations and agreements under the lease-purchase agreement.
  - (2) No deficiency judgment may be rendered against the State or any agency, department, or commission of the State in any action for breach of any obligation contained in the lease-purchase agreement or any other related documentation, and the taxing power of the State or any agency, department, or commission of the State is not and may not be pledged to secure any moneys due under the lease-purchase agreement.
  - (3) The lease-purchase agreement shall not contain a nonsubstitution clause that restricts the right of the State to replace or provide a substitute for the Projects.
  - (4) The lease-purchase agreement may include provisions requesting the Governor to submit in the Governor's budget proposal, or any amendments or supplements to it, appropriations necessary to make the payments required under the lease-purchase agreement.
  - (5) The lease-purchase agreement may contain any provisions for protecting and enforcing the rights and remedies of the special nonprofit corporation that are reasonable and proper and not in violation of law, including covenants setting forth the duties of the State with respect to the Projects, which may include provisions relating to insuring, operating, and maintaining the Projects and the custody, safeguarding, investment, and application of moneys.
  - (6) The lease-purchase agreement may designate the lease payments to be paid by the State under it to be "principal components" and "interest components." Any interest component of the lease payments may be

calculated based upon a fixed or variable interest rate or rates as determined by the State Treasurer.

- (7) The lease-purchase agreement may be entered into by the State, and certificates of participation may be delivered by the special nonprofit corporation, at any time, including at times prior to the delivery of the completed Projects to the special nonprofit corporation for purchase, corporation, and the related delivery of occupancy of the Projects to the State by the special nonprofit corporation. The lease-purchase agreement may require the State to make prepayments of lease payments at a time prior to when the State accepts occupancy of the Projects. The lease-purchase agreement and related financing arrangements may provide for the funding of interest during construction from the proceeds of certificates of participation. The costs incurred in connection with the preparation of the lease-purchase agreement and related documents and the delivery of the certificates of participation may be paid from the proceeds of the certificates of participation.
- (8) The State is authorized to agree in the lease-purchase agreement to indemnify the special corporation and its directors and agents for any liabilities that arise to the special corporation or directors or agents on account of their participation in the activities contemplated by this act.

(f) Faith and Credit Not Pledged. – The payment of amounts payable by the State under the lease-purchase agreement and other related documentation during any fiscal biennium or fiscal year is limited to funds appropriated for that purpose by the General Assembly in its discretion. No provision of this section and no lease-purchase agreement creates any pledge of the faith and credit of the State or any agency, department, or commission of the State within the meaning of any constitutional debt limitation.

(g) Certificates of Participation. – The State may cooperate as necessary to effectuate the delivery by the special nonprofit corporation of tax-exempt certificates of participation, including participating in the preparation of offering documents, the filing of required tax forms and agreeing to comply with restrictions on the use of the Projects as required in order for the interest component of the lease payments to be tax-exempt. Disclosures and compliance with other federal law requirements by the special nonprofit corporation shall be under the direction of the State Treasurer. Certificates of participation may be sold at the direction of the State Treasurer in the manner, either at public or private sale, and for any price or prices that the State Treasurer determines to be in the best interest of the State and to effect the purposes of this section. Interest payable with respect to certificates of participation shall accrue at the rate or rates determined by the State Treasurer with the approval of the special nonprofit corporation.

Certificates of participation may be delivered pursuant to a trust agreement with a corporate trustee approved by the State Treasurer. The corporate trustee may be any trust company or bank having the powers of a trust company within or without the State. A trust agreement may (i) provide for security and pledges and assignments with respect to the security as may be permitted under this section and further provide for the enforcement of any lien or security interest created pursuant to this section, and (ii)

contain any provisions for protecting and enforcing the rights and remedies of the owners of any certificates of participation that are reasonable and proper and not in violation of law as determined by the State Treasurer. The State Treasurer shall designate the professionals providing legal or financial services relating to the lease-purchase agreement and the delivery of certificates of participation, including the provider of any credit facility and the underwriter or placement agent for any certificates of participation.

(h) **Tax Exemption.** – The lease purchase agreement and any certificates of participation relating to it shall at all times be free from taxation by the State or any political subdivision or any of their agencies, excepting estate, inheritance, or gift taxes, income taxes on the gain from the transfer of the lease-purchase agreement and certificates of participation, and franchise taxes. The interest component of the lease payments made by the State under the lease-purchase agreement, including the interest payable with respect to any certificates of participation, is not subject to taxation as income.

(i) **Licensing Requirements.** – ~~The private for-profit or nonprofit firms authorized to respond to requests for proposal-proposals authorized by this section, or entitled to be a Selected Contractor selected contractor pursuant to any response to such proposal, this section, need not be a licensed general contractor within the meaning of G.S. 87-1 so that providing a response to such request for proposal the request or entering a Construction Contract Agreement or Purchase Agreement shall not be deemed construction contract agreement or purchase agreement is not general contracting within the meaning of G.S. 87-1; ~~provided that this~~ 87-1. ~~This subsection shall not be deemed to~~ does not remove the actual construction of any prison facility from the provisions of G.S. 87-1.~~

(j) **Minority Business Participation.** – G.S. 143-128.2 applies to the Projects authorized in this section."

**SECTION 47.2.** The two 1000-cell close security prototypical prisons to be constructed in Greene County and Bertie County shall be constructed in accordance with the North Carolina State Building Code, 1996 Edition through 1999 revisions, if construction starts before January 1, 2004. This section applies only if the construction documents have been reviewed and approved by the Department of Insurance, the State Construction Office, and the Department of Correction.

## **PART XLVIII. GENERAL PROVISIONS**

### **GENERAL PROVISIONS**

**SECTION 48.1.** Parts 32 through 47 of this act do not affect the rights or liabilities of the State, a taxpayer, or another person arising under a statute amended or repealed by those parts before the effective date of its amendment or repeal; nor do they affect the right to any refund or credit of a tax that accrued under the amended or repealed statute before the effective date of its amendment or repeal.

**SECTION 48.2.** Except as otherwise provided in this act, parts 32 through 48 of this act are effective when this act becomes law.

**PART XLIX. MISCELLANEOUS PROVISIONS****EXECUTIVE BUDGET ACT APPLIES**

**SECTION 49.1.** The provisions of the Executive Budget Act, Chapter 143, Article 1 of the General Statutes, are reenacted and shall remain in full force and effect and are incorporated in this act by reference.

**COMMITTEE REPORT**

**SECTION 49.2.(a)** The Joint Conference Committee Report on the Continuation, Expansion and Capital Budgets, dated June 28, 2003, which was distributed in the House of Representatives and the Senate and used to explain this act, shall indicate action by the General Assembly on this act and shall therefore be used to construe this act, as provided in G.S. 143-15 of the Executive Budget Act, and for these purposes shall be considered a part of this act and as such shall be printed as a part of the Session Laws.

**SECTION 49.2.(b)** The budget enacted by the General Assembly for the maintenance of the various departments, institutions, and other spending agencies of the State for the 2003-2005 fiscal biennium is a line item budget, in accordance with the Budget Code Structure and the State Accounting System Uniform Chart of Accounts set out in the Administrative Policies and Procedures Manual of the Office of the State Controller. This budget includes the appropriations made from all sources including the General Fund, Highway Fund, special funds, cash balances, federal receipts, and departmental receipts.

The General Assembly amended the itemized budget requests submitted to the General Assembly by the Director of the Budget and the Advisory Budget Commission, in accordance with the Joint Conference Committee Report on the Continuation, Expansion and Capital Budgets, dated June 28, 2003, together with any accompanying correction sheets.

The budget enacted by the General Assembly shall be interpreted in accordance with the special provisions in this act and in accordance with other appropriate legislation.

In the event that there is a conflict between the line item budget certified by the Director of the Budget and the budget enacted by the General Assembly, the budget enacted by the General Assembly shall prevail.

**MOST TEXT APPLIES ONLY TO THE 2003-2005 FISCAL BIENNIUM**

**SECTION 49.3.** Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 2003-2005 fiscal biennium, the textual provisions of this act apply only to funds appropriated for, and activities occurring during, the 2003-2005 fiscal biennium.

**EFFECT OF HEADINGS**

**SECTION 49.4.** The headings to the parts and sections of this act are a convenience to the reader and are for reference only. The headings do not expand, limit, or define the text of this act, except for effective dates referring to a Part.

**SEVERABILITY CLAUSE**

**SECTION 49.5.** If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part so declared to be unconstitutional or invalid.

**EFFECTIVE DATE**

**SECTION 49.6.** Except as otherwise provided, this act becomes effective July 1, 2003.

In the General Assembly read three times and ratified this the 30<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 5:18 p.m. on the 30<sup>th</sup> day of June, 2003.

**S.B. 786****Session Law 2003-285**

AN ACT TO PROVIDE THAT WHEN THE PROPERTY OF A RESIDENT OF A STATE INSTITUTION UNDER THE DEPARTMENT OF HEALTH AND HUMAN SERVICES IS LOST, DESTROYED, OR OTHERWISE DAMAGED THROUGH NEGLIGENT HANDLING BY THE INSTITUTION, THE INSTITUTION MAY MAKE DIRECT PAYMENT OR PROVIDE REPLACEMENT OF THE ITEM TO THE RESIDENT WITHOUT RECOURSE TO THE TORT CLAIMS PROCESS IF THE AMOUNT OF DAMAGES IS LESS THAN FIVE HUNDRED DOLLARS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Article 31 of Chapter 143 of the General Statutes is amended by adding a new section to read:

**"§ 143-295.1. Settlement of small claims against institutions of the Department of Health and Human Services.**

When the property of a resident of a State institution under the Department of Health and Human Services is lost, destroyed, or otherwise damaged through negligent handling by the institution, and the amount of damages is less than five hundred dollars (\$500.00), the institution may make direct payment or provide replacement of the item to the resident without recourse to the procedures otherwise provided by this Article."

**SECTION 2.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 23<sup>rd</sup> day of June, 2003.

Became law upon approval of the Governor at 4:30 p.m. on the 4<sup>th</sup> day of July, 2003.

**S.B. 773****Session Law 2003-286**

AN ACT TO AUTHORIZE COMMUNITY COLLEGES TO ENTER INTO PUBLIC/PRIVATE PARTNERSHIPS FOR CONSTRUCTION PROJECTS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 115D-20 is amended by adding a new subdivision to read:

**"§ 115D-20. Powers and duties of trustees.**

The trustees of each institution shall constitute the local administrative board of such institution, with such powers and duties as are provided in this Chapter and as are delegated to it by the State Board of Community Colleges. The powers and duties of trustees shall include the following:

- ...
- (13) To enter into a public/private partnership in which all of the following conditions are met:
- a. The agreement is approved in advance by the State Board of Community Colleges.
  - b. The board of trustees agrees to lease community college land to a private entity on condition that the entity construct a facility on the leased land.
  - c. The facility will be jointly owned and used by the private entity and the community college.
  - d. The board of trustees is not authorized to lease the facility as lessee under a long-term lease or capital lease from the private entity as lessor.
  - e. The board of trustees is not authorized to finance its portion of the facility by entering into an installment contract or other financing contract with the private entity.
  - f. State bond funds shall not be used to pay for construction of that part of the facility to be owned and used by the private entity.
  - g. The provisions of G.S. 143-341(3)a. apply to the construction of a facility under this subsection."

**SECTION 2.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 23<sup>rd</sup> day of June, 2003.

Became law upon approval of the Governor at 4:31 p.m. on the 4<sup>th</sup> day of July, 2003.

**S.B. 537**

**Session Law 2003-287**

**AN ACT TO EXCLUDE AIRPORTS FROM THE PUBLIC ENTERPRISE BILLING INFORMATION PRIVACY LAW.**

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 132-1.1 reads as rewritten:

**"§ 132-1.1. Confidential communications by legal counsel to public board or agency; State tax information; public enterprise billing information.**

(a) Confidential Communications. – Public records, as defined in G.S. 132-1, shall not include written communications (and copies thereof) to any public board, council, commission or other governmental body of the State or of any county, municipality or other political subdivision or unit of government, made within the scope of the attorney-client relationship by any attorney-at-law serving any such governmental body, concerning any claim against or on behalf of the governmental body or the governmental entity for which such body acts, or concerning the prosecution, defense, settlement or litigation of any judicial action, or any administrative or other type of

proceeding to which the governmental body is a party or by which it is or may be directly affected. Such written communication and copies thereof shall not be open to public inspection, examination or copying unless specifically made public by the governmental body receiving such written communications; provided, however, that such written communications and copies thereof shall become public records as defined in G.S. 132-1 three years from the date such communication was received by such public board, council, commission or other governmental body.

(b) State and Local Tax Information. – Tax information may not be disclosed except as provided in G.S. 105-259. As used in this subsection, "tax information" has the same meaning as in G.S. 105-259. Local tax records that contain information about a taxpayer's income or receipts may not be disclosed except as provided in G.S. 153A-148.1 and G.S. 160A-208.1.

(c) Public Enterprise Billing Information. – Billing information compiled and maintained by a city or county or other public entity providing utility services in connection with the ownership or operation of a public enterprise, excluding airports, is not a public record as defined in G.S. 132-1. Nothing contained herein is intended to limit public disclosure by a city or county of billing information:

- (i)(1) ~~that~~ That the city or county determines will be useful or necessary to assist bond counsel, bond underwriters, underwriters' counsel, rating agencies or investors or potential investors in making informed decisions regarding bonds or other obligations incurred or to be incurred with respect to the public enterprise;
- (ii)(2) ~~that~~ That is necessary to assist the city, county, State, or public enterprise to maintain the integrity and quality of services it provides;
- or
- (iii)(3) ~~that~~ That is necessary to assist law enforcement, public safety, fire protection, rescue, emergency management, or judicial officers in the performance of their duties.

As used herein, "billing information" means any record or information, in whatever form, compiled or maintained with respect to individual customers by any owner or operator of a public enterprise, as defined in G.S. 160A-311, excluding subdivision (9), and G.S. 153A-274, excluding subdivision (4), or other public entity providing utility services, excluding airports, relating to services it provides or will provide to the customer."

**SECTION 2.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 23<sup>rd</sup> day of June, 2003.

Became law upon approval of the Governor at 4:32 p.m. on the 4<sup>th</sup> day of July, 2003.

## S.B. 423

## Session Law 2003-288

### AN ACT TO CLARIFY AND ENHANCE CHILD SUPPORT ENFORCEMENT LAWS.

*The General Assembly of North Carolina enacts:*

- PART 1. LIQUIDATION
- PART 2. LICENSING BOARDS
- PART 3. PAY RECORDS



PART 4. FINANCIAL INSTITUTIONS

PART 5. EFFECTIVE DATES

**PART 1. LIQUIDATION**

**SECTION 1.** G.S. 50-13.4(c) reads as rewritten:

"(c) Payments ordered for the support of a minor child shall be in such amount as to meet the reasonable needs of the child for health, education, and maintenance, having due regard to the estates, earnings, conditions, accustomed standard of living of the child and the parties, the child care and homemaker contributions of each party, and other facts of the particular case. Payments ordered for the support of a minor child shall be on a monthly basis, due and payable on the first day of each month. The requirement that orders be established on a monthly basis does not affect the availability of garnishment of disposable earnings based on an obligor's pay period.

The court shall determine the amount of child support payments by applying the presumptive guidelines established pursuant to subsection (c1) of this section. However, upon request of any party, the Court shall hear evidence, and from the evidence, find the facts relating to the reasonable needs of the child for support and the relative ability of each parent to provide support. If, after considering the evidence, the Court finds by the greater weight of the evidence that the application of the guidelines would not meet or would exceed the reasonable needs of the child considering the relative ability of each parent to provide support or would be otherwise unjust or inappropriate the Court may vary from the guidelines. If the court orders an amount other than the amount determined by application of the presumptive guidelines, the court shall make findings of fact as to the criteria that justify varying from the guidelines and the basis for the amount ordered.

Payments ordered for the support of a child shall terminate when the child reaches the age of 18 except:

- (1) If the child is otherwise emancipated, payments shall terminate at that time;
- (2) If the child is still in primary or secondary school when the child reaches age 18, support payments shall continue until the child graduates, otherwise ceases to attend school on a regular basis, fails to make satisfactory academic progress towards graduation, or reaches age 20, whichever comes first, unless the court in its discretion orders that payments cease at age 18 or prior to high school graduation.

In the case of graduation, or attaining age 20, payments shall terminate without order by the court, subject to the right of the party receiving support to show, upon motion and with notice to the opposing party, that the child has not graduated or attained the age of 20.

If an arrearage for child support or fees due exists at the time that a child support obligation terminates, payments shall continue in the same total amount that was due under the terms of the previous court order or income withholding in effect at the time of the support obligation. The total amount of these payments is to be applied to the arrearage until all arrearages and fees are satisfied or until further order of the court."

**SECTION 1.1.** G.S. 110-135 reads as rewritten:

**"§ 110-135. Debt to State created.**

Acceptance of public assistance by or on behalf of a dependent child creates a debt, in the amount of public assistance paid, due and owing the State by the responsible parent or parents of the child. Provided, however, that in those cases in which child

support was required to be paid incident to a court order during the time of receipt of public assistance, the debt shall be limited to the amount specified in such court order. This liability shall attach only to public assistance granted subsequent to June 30, 1975, and only with respect to the period of time during which public assistance is granted, and only if the responsible parent or parents were financially able to furnish support during this period.

The United States, the State of North Carolina, and any county within the State which has provided public assistance to or on behalf of a dependent child shall be entitled to share in any sum collected under this section, and their proportionate parts of such sum shall be determined in accordance with the matching formulas in use during the period for which assistance was paid.

No action to collect such debt shall be commenced after the expiration of five years subsequent to the receipt of the last grant of public assistance. The county attorney or an attorney retained by the county and/or State shall represent the State in all proceedings brought under this section.

Upon the termination of a child support obligation due to the death of the obligor, the Department shall determine whether the obligor's estate contains sufficient assets to satisfy any child support arrearages. If sufficient assets are available, the Department shall attempt to collect the arrearage."

## **PART 2. LICENSING BOARDS**

**SECTION 2.** G.S. 93B-13(a) reads as rewritten:

"(a) Upon receipt of a court order, pursuant to G.S. ~~50-13.12~~, 50-13.12 and G.S. 110-142.1, revoking the occupational license of a licensee under its jurisdiction, an occupational licensing board shall note the revocation in its ~~records~~-records, report the action within 30 days to the Department of Health and Human Services, and follow the normal postrevocation rules and procedures of the board as if the revocation had been ordered by the board. The revocation shall remain in effect until the board receives certification by the clerk of superior court or the Department of Health and Human Services in an IV-D case that the licensee is no longer delinquent in child support payments, or, as applicable, that the licensee is in compliance with or is no longer subject to the subpoena that was the basis for the revocation."

## **PART 3. PAY RECORDS**

**SECTION 3.1.** G.S. 110-139(b) reads as rewritten:

"(b) In order to carry out the responsibilities imposed under this Article, the Department may request from any governmental department, board, commission, bureau or agency information and assistance. All State, county and city agencies, officers and employees shall cooperate with the Department in the location of parents who have abandoned and deserted children with all pertinent information relative to the location, income and property of such parents, notwithstanding any provision of law making such information confidential. Except as otherwise stated in this subsection, all ~~All~~-nonjudicial records maintained by the Department pertaining to child-support enforcement shall be confidential, and only duly authorized representatives of social service agencies, public officials with child-support enforcement and related duties, and members of legislative committees shall have access to these records. The payment history of an obligor pursuant to a support order may be examined by or released to the court, the obligor, or the person on whose behalf enforcement actions are being taken or that person's designee. Income and expense information of either parent may be released to the other parent for the purpose of establishing or modifying a support order."

**SECTION 3.2.** G.S. 50-13.11(a1) reads as rewritten:

"(a1) The court shall order the parent of a minor child or other responsible party to maintain health insurance for the benefit of the child when health insurance is available at a reasonable cost. If health insurance is not presently available at a reasonable cost, the court shall order the parent of a minor child or other responsible party to maintain health insurance for the benefit of the child when health insurance becomes available at a reasonable cost. As used in this subsection, health insurance is considered reasonable in cost if it is employment related or other group health insurance, regardless of service delivery mechanism. The court may require one or both parties to maintain dental insurance."

**PART 4. FINANCIAL INSTITUTIONS**

**SECTION 4.** G.S. 110-139.2 is amended by adding a new subsection to read:

"(b1) The Department of Health and Human Services Child Support Enforcement Agency may notify any financial institution doing business in this State that an obligor who maintains an identified account with the financial institution has a delinquent child support obligation that may be eligible for levy on the account in an amount that satisfies some or all of the delinquency. In order to be able to attach a lien on and levy an obligor's account, the obligor's child support obligation shall be in arrears in an amount not less than the amount of support owed for six months or one thousand dollars (\$1,000), whichever is less.

Upon certification of the arrears amount in accordance with G.S. 44-86(c), the Child Support Agency shall serve or cause to be served upon the obligor and the financial institution a notice as provided by this subsection. The notice shall be served in any manner provided in Rule 4 of the North Carolina Rules of Civil Procedure and shall include the name of the obligor, the financial institution where the account is located, the account number of the account to be levied to satisfy the lien, the certified arrears amount, information for the obligor on how to remove the lien or contest the lien in order to avoid the levy, and a copy of the applicable law, G.S. 110-139.2. Upon service of the notice, the financial institution shall proceed in the following manner:

- (1) Immediately attach a lien to the identified account.
- (2) Notify the Child Support Agency of the balance of the account and date of the lien or that the account does not meet the requirement for levy under this subsection.

In order for an obligor to contest the lien, within 10 days after the obligor is served with the notice, the obligor shall send written notice of the basis of the obligor's contest to the Child Support Agency and shall request a hearing before the district court in the county where the support order was entered. The lien may be contested only on the basis that the arrearage is an amount less than the amount of support owed for six months, or is less than one thousand dollars (\$1,000), or the obligor is not the person subject to the court order of support. The district court may assess court costs against the nonprevailing party. If no response is received from the obligor within 10 days of the service of the notice, the Child Support Agency shall notify the financial institution to submit payment, up to the total amount of the child support arrears, if available. This amount is to be applied to the debt of the delinquent obligor.

A financial institution shall not be liable to any person for complying in good faith with this subsection.

This levy procedure is to be available for direct use by all states' child support programs to financial institutions in this State."

**PART 5. EFFECTIVE DATES**

**SECTION 5.** Part 3 of this act becomes effective July 1, 2003. The remainder of this act is effective when it becomes law, except for Part 4 which becomes effective 90 days after this act becomes law.

In the General Assembly read three times and ratified this the 23<sup>rd</sup> day of June, 2003.

Became law upon approval of the Governor at 4:33 p.m. on the 4<sup>th</sup> day of July, 2003.

**S.B. 117****Session Law 2003-289**

**AN ACT TO NAME THE WESTERN JUSTICE ACADEMY IN HONOR OF REPRESENTATIVE LARRY T. JUSTUS.**

Whereas, Representative Larry T. Justus of Hendersonville, North Carolina, was a member of the North Carolina House of Representatives for nine terms, from 1985 until his untimely death on October 20, 2002; and

Whereas, during his nine terms as a member of the General Assembly, Larry T. Justus served on a number of committees, including the Appropriations Subcommittee on Justice and Public Safety and the Judiciary II and IV Committees; and

Whereas, Larry T. Justus was particularly interested in justice and public safety issues and was instrumental in the establishment of the Western Justice Academy; and

Whereas, the Western Justice Academy, located at Edneyville in Henderson County, is part of the North Carolina Department of Justice; and

Whereas, the Western Justice Academy provides training programs for criminal justice personnel and technical assistance to criminal justice agencies to aid them in the discharge of their responsibilities; Now, therefore,

*The General Assembly of North Carolina enacts:*

**SECTION 1.** The Western Justice Academy is hereby designated the Larry T. Justus Western Justice Academy in recognition of Representative Larry T. Justus's dedicated leadership in the North Carolina General Assembly on justice and public safety issues and his commitment to the safety and well-being of the citizens of this State.

**SECTION 2.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 23<sup>rd</sup> day of June, 2003.

Became law upon approval of the Governor at 4:34 p.m. on the 4<sup>th</sup> day of July, 2003.

**H.B. 283****Session Law 2003-290**

**AN ACT TO REQUIRE REAL PROPERTY WARRANTY COMPANIES TO CARRY CONTRACTUAL LIABILITY POLICIES; ESTABLISH GREATER UNIFORMITY AND FLEXIBILITY FOR REQUIREMENTS IMPOSED UPON SERVICE AGREEMENT COMPANIES AND PERSONS THAT ISSUE WARRANTIES UNDER ARTICLE 1 OF CHAPTER 58; EXPAND THE DEFINITION OF HOME APPLIANCE WITHIN THE HOME APPLIANCE**

SERVICE AGREEMENT COMPANIES STATUTE; ENHANCE ENFORCEMENT OF ARTICLE 1 OF CHAPTER 58; REQUIRE MOTOR VEHICLE AND HOME APPLIANCE SERVICE AGREEMENT COMPANIES TO USE A SPECIFIC FORMAT ON ALL WRITTEN MATERIALS SUBMITTED; MANDATE ALL REQUIRED INSURER SUBMISSIONS TO THE DEPARTMENT OF INSURANCE TO BE IN A SPECIFIC FORMAT IF IN WRITING; DEFINE MECHANICAL BREAKDOWN SERVICE AGREEMENTS AND REQUIRE ALL MECHANICAL BREAKDOWN SERVICE AGREEMENT COMPANIES TO COMPLY WITH ARTICLE 1 OF CHAPTER 58 OF THE GENERAL STATUTES AND WITH THE RULES REGARDING MOTOR VEHICLE AND HOME APPLIANCE SERVICE AGREEMENT COMPANIES; AND AUTHORIZE THE ISSUANCE OF LIMITED LICENSES FOR THE SALE OF INSURANCE COVERAGE ON PERSONAL PROPERTY STORED IN SELF-SERVICE STORAGE UNITS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.(a)** G.S. 58-1-20 is amended by adding a new subsection to read:

"(c) Persons issuing real property warranties shall comply with the requirements of G.S. 58-1-36."

**SECTION 1.(b)** G.S. 58-1-30 reads as rewritten:

"§ 58-1-30. **Home appliance service agreement companies.**

(a) This section applies to all home appliance service agreement companies soliciting business in this State, but it does not apply to performance guarantees or warranties made by manufacturers in connection with the sale of new home appliances. This section does not apply to any home appliance dealer licensed to do business in this State (i) whose primary business is the retail sale and service of home appliances; (ii) who makes and administers its own service agreements without association with any other entity; and (iii) whose service agreements cover only primarily appliances sold by the dealer to its retail customers, provided that the dealer complies with G.S. 58-1-35 and G.S. 58-1-36. ~~Provided, however, that G.S. 58-1-36 does not apply to a service agreement contract offered by a person primarily engaged in the retail sale of goods and services who incidentally offers service agreement contracts and has a net worth of one hundred million dollars (\$100,000,000), has offered service agreement contracts for at least the preceding 10 years, and is required to file an SEC Form 10K.~~ This section does not apply to any warranty made by a builder or seller of real property relating to home appliances that are sold along with real property. This section does not apply to any issuer of credit cards or charge cards that markets home appliance service agreements as an ancillary part of its business; provided, however, that such issuer maintains insurance in accordance with G.S. 58-1-36.

(b) The following definitions apply in this section:

- (1) ~~Home appliance. Includes~~ 'Home appliance' means a clothes washing machine or dryer; kitchen appliance; vacuum cleaner; sewing machine; home audio or video electronic equipment; home electronic data processing equipment; home exercise and fitness equipment; home health care equipment; power tools; or heater or air conditioner, other than a permanently installed unit using internal ductwork; or other personal consumer goods.

- (2) ~~Home appliance service agreement. Any 'Home appliance service agreement' means any contract or agreement indemnifying the home appliance service agreement holder against loss caused by failure, arising out of the ownership, operation, or use of a home appliance, of a mechanical or other component part of the home appliance that is listed in the agreement.~~
- (3) ~~Home appliance service agreement company. Any 'Home appliance service agreement company' means any person that issues home appliance service agreements and that is not a licensed insurer.~~
- (c) through (g) Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 730, s. 3."  
**SECTION 1.(c)** G.S. 58-1-36 reads as rewritten:

**"§ 58-1-36. Insurance policy requirements.**

(a) Each ~~service agreement company~~ or person subject to this section shall maintain contractual liability insurance or service agreement reimbursement insurance with an authorized insurer for one hundred percent (100%) of claims exposure, including reported and incurred but not reported claims and claims expenses, on business written in this ~~State~~-State unless the company or person:

- (1) Maintains an audited net worth of one hundred million dollars (\$100,000,000);
- (2) Has offered service agreement contracts or warranties, as applicable to the respective company, its parent company, or person, for at least the preceding 10 years; and
- (3) Either is required to file and has filed an SEC Form 10K or Form 20-F with the Securities and Exchange Commission (SEC) within the last calendar year or, if the company does not file with the SEC, can produce, upon request, a copy of the company's audited financial statements, which show a net worth of the company or person of at least one hundred million dollars (\$100,000,000). A company or person may utilize its parent company's Form 10-K, Form 20-F, or audited financial statements to satisfy this requirement if the parent company agrees to guarantee the obligations of the company or person relating to service agreement contracts or warranties, as applicable to the respective company or person, sold by the company or person in this State.

(b) All forms relating to insurance policies written by authorized insurers under this section shall be filed with and approved by the Commissioner before they may be used for any purpose in this State, irrespective of whether the insurers are licensed insurers.

(c) Each policy shall contain the following provisions:

- (1) If the ~~service agreement company~~ or person does not fulfill its obligations under service agreements or warranties issued in this State for any reason, including federal bankruptcy or state receivership proceedings, the insurer will pay losses and unearned premium refunds directly to any person making the claim under the service agreement.
- (2) The insurer shall assume full responsibility for the administration of claims if the ~~service agreement company~~ or person is unable to do so.
- (3) The policy is subject to the cancellation, nonrenewal, and renewal provisions of G.S. 58-41-15, 58-41-20, 58-41-25, and 58-41-40.

- (4) The policy shall insure all service agreements and warranties that were issued while the policy was in effect, regardless of whether the premium was remitted to the insurer.
- (5) If the insurer is fulfilling any service agreement covered by the policy and if the service agreement holder cancels the service agreement, the insurer shall make a full refund of the unearned premium to the consumer pursuant to G.S. 58-1-35(e)(3). This subdivision applies only to service agreement companies.

(d) The Commissioner may adopt rules, in addition to the requirements of this section, governing the terms and conditions of policy forms for the insurance required by this section.

(e) Persons and companies subject to G.S. 58-1-15, 58-1-20, 58-1-25, 58-1-30, and 58-1-40 are subject to and shall comply with this section. The Commissioner may enforce compliance with this section using the provisions of Article 2 of this Chapter."

**SECTION 2.** G.S. 58-1-35 is amended by adding a new subsection to read:

"(m) If not submitted electronically, all contracts, literature, advertising materials, letters, and other documents submitted to the Department to comply with the filing requirements of this Chapter or an administrative rule adopted pursuant to this Chapter shall be submitted on paper eight and one-half inches by eleven inches. Brochures and pamphlets shall not be stapled or bound."

**SECTION 3.** G.S. 58-3-150 is amended by adding a new subsection to read:

"(c) If not submitted electronically, all contracts, literature, advertising materials, letters, and other documents submitted to the Department to comply with the filing requirements of this Chapter or an administrative rule adopted pursuant to this Chapter shall be submitted on paper eight and one-half inches by eleven inches. Brochures and pamphlets shall not be stapled or bound."

**SECTION 4.** Article 1 of Chapter 58 of the General Statutes is amended by adding a new section to read:

**"§ 58-1-40. Mechanical breakdown service agreements.**

(a) Except as provided in subsection (c) of this section, all mechanical breakdown service agreement companies soliciting business in this State shall comply with G.S. 58-1-35 and G.S. 58-1-36.

(b) As used in this section, 'mechanical breakdown service agreement companies' include any person that issues mechanical breakdown service agreements and is not a licensed insurer, and 'mechanical breakdown service agreements' are applicable to mechanized equipment, including automobiles, riding mowers, scooters, generators, farm implements, logging equipment, road graders, bulldozers, and power equipment not licensed for road use, whether mobile or not.

(c) This section does not apply to performance guarantees, warranties, mechanical breakdown service agreements, or motor vehicle service agreements made by:

- (1) A manufacturer.
- (2) A distributor.
- (3) A subsidiary of a manufacturer or distributor."

**SECTION 5.** Article 33 of Chapter 58 of the General Statutes is amended by adding a new section to read:

**"§ 58-33-18. Limited license for self-service storage companies.**

(a) As used in this section:

- (1) 'Limited licensee' means a person authorized to sell certain coverages relating to the rental of self-service storage units pursuant to the provisions of this section and Article 39 of Chapter 66 of the General Statutes.
- (2) 'Rental agreement' means any written agreement setting forth the terms and conditions governing the use of a storage unit provided by the owner of a self-service storage facility company.
- (3) 'Self-service storage company' means any person in the business of renting storage units to the public.
- (4) 'Renter' or 'occupant' means any person obtaining the use of a storage unit from a self-service storage company under the terms of a rental agreement.
- (5) 'Storage unit' means a semienclosed or fully enclosed area, room, or space that is primarily intended for the storage of personal property and which shall be accessible by the renter of the unit pursuant to the terms of the rental agreement.

(b) The Commissioner may issue to a self-service storage company, or to a franchisee of a self-service storage company, that has complied with the requirements of this section a limited license authorizing the licensee, known as a 'limited licensee' for the purpose of this Article, to act as agent, with reference to the kinds of insurance specified in this section of any insurer authorized to write such kinds of insurance in this State.

(c) The prerequisites for issuance of a limited license under this section are the filing with the Commissioner of the following:

- (1) A written application, signed by an officer of the applicant, for the limited license in such form or forms, and supplements thereto, and containing such information as the Commissioner may prescribe; and
- (2) A certificate by the insurer that is to be named in such limited license, stating that it has satisfied itself that the named applicant is trustworthy and competent to act as its insurance agent for this limited purpose and that the insurer will appoint such applicant to act as the agent in reference to the doing of such kind or kinds of insurance as are permitted by this section if the limited license applied for is issued by the Commissioner. Such certificate shall be subscribed by an officer or managing agent of such insurer and affirmed as true under the penalties of perjury.

(d) In the event that any provision of this section is violated by a limited licensee, the Commissioner may:

- (1) Revoke or suspend a limited license issued under this section in accordance with the provisions of G.S. 58-33-46; or
- (2) After notice and hearing, impose such other penalties, including suspending the transaction of insurance at specific rental locations where violations of this Article have occurred, as the Commissioner deems to be necessary or convenient to carry out the purposes of this section.



(e) The self-service storage company or franchisee licensed pursuant to subsection (b) of this section may act as agent for an authorized insurer only in connection with the rental of storage units and only with respect to the following kinds of insurance:

- (1) Personal effects insurance that provides coverage to renters of storage units at the same facility for the loss of, or damage to, personal effects that occurs at the same facility during the rental period; or
- (2) Any other coverage that the Commissioner may approve as meaningful and appropriate in connection with the rental of storage units.

(f) No insurance may be issued pursuant to this section unless:

- (1) The rental period of the rental agreement does not exceed two years; and
- (2) At every self-service storage location where self-service storage agreements are executed, brochures or other written materials are readily available to the prospective renter that:
  - a. Summarize, clearly and correctly, the material terms of insurance coverage, including the identity of the insurer, offered to renters;
  - b. Disclose that these policies offered by the self-service storage company may provide a duplication of coverage already provided by a renter's homeowners' insurance policy, personal liability insurance policy, or other source of coverage;
  - c. State that the purchase by the renter of the kinds of insurance specified in this section is not required in order to rent a storage unit;
  - d. Describe the process for filing a claim in the event the renter elects to purchase coverage and in the event of a claim; and
  - e. Contain any additional information on the price, benefits, exclusions, conditions, or other limitations of such policies as the Commissioner may by regulation prescribe; and
- (3) Evidence of coverage is provided to every renter who elects to purchase such coverage.

(g) Any limited license issued under this section shall also authorize any employee of the licensee who is trained, pursuant to subsection (h) of this section, to act individually on behalf, and under the supervision, of the licensee with respect to the kinds of insurance specified in this section.

(h) Each self-service storage company or franchisee licensed pursuant to this section shall conduct a training program which shall be submitted to the Commissioner for approval prior to use and which shall meet the following minimum standards:

- (1) Each trainee shall receive basic instruction about the kinds of insurance specified in this section offered for purchase by prospective renters of storage units;
- (2) Each trainee shall be instructed to acknowledge to a prospective renter of a storage unit that purchase of any such insurance specified in this section is not required in order for the renter to rent a storage unit; and
- (3) Each trainee shall be instructed to acknowledge to a prospective renter of a storage unit that the renter may have insurance policies that already provide the coverage being offered by the self-service storage company pursuant to this section.

(i) Limited licensees acting pursuant to and under the authority of this section shall comply with all applicable provisions of this Article, except that notwithstanding any other provision of this Article, or any rule adopted by the Commissioner, a limited licensee pursuant to this section shall not be required to treat premiums collected from renters purchasing such insurance when renting storage units as funds received in a fiduciary capacity, provided that:

- (1) The insurer represented by the limited licensee has consented in writing, signed by the insurer's officer, that premiums need not be segregated from funds received by the self-service storage company on account of storage unit rental; and
- (2) The charges for insurance coverage are itemized but not billed to the renter separately from the charges for storage units.

(j) No limited licensee under this section shall advertise, represent, or otherwise hold itself or any of its employees out as licensed insurance agents or brokers. No renter or occupant may be required to obtain insurance under this section as a condition of obtaining a rental agreement for a storage unit. The renter shall be informed that the insurance offered under this section is not required as a condition for obtaining a rental agreement for a storage unit."

**SECTION 6.** Sections 1 through 4 of this act become effective October 1, 2003. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 23<sup>rd</sup> day of June, 2003.

Became law upon approval of the Governor at 4:34 p.m. on the 4<sup>th</sup> day of July, 2003.

## S.B. 955

## Session Law 2003-291

### AN ACT TO MODIFY THE LAW REGARDING CONTRACTS FOR SCHOOL PRINCIPALS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 115C-287.1(b) reads as rewritten:

"(b) Local boards of education shall employ school administrators who are ineligible for career status as provided in G.S. 115C-325(c)(3), upon the recommendation of the superintendent. ~~All contracts~~ The initial contract between a school administrator and a local board of education shall be for two to four years, ending on June 30 of the final 12 months of the contract. In the case of a subsequent contract between a principal or assistant principal and a local board of education, the contract shall be for a term of four years. In the case of an initial contract between a school administrator and a local board of education, the first year of the contract may be for a period of less than 12 months provided the contract becomes effective on or before September 1. A local board of education may, with the written consent of the school administrator, extend, renew, or offer a new school administrator's contract at any time after the first 12 months of the contract so long as the term of the new, renewed, or extended contract does not exceed four years. Rolling annual contract renewals are not allowed. Nothing in this section shall be construed to prohibit the filling of an administrative position on an interim or temporary basis."

**SECTION 2.** This act becomes effective July 1, 2003.

In the General Assembly read three times and ratified this the 24<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 4:35 p.m. on the 4<sup>th</sup> day of July, 2003.

**H.B. 1016**

**Session Law 2003-292**

AN ACT TO ADD PARTICULAR UNIVERSITY FACILITIES AS NONSMOKING AREAS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 143-597(a) reads as rewritten:

"(a) All of the following areas may be designated as nonsmoking in buildings owned, leased, or occupied by State government:

- (1) Any library open to the public.
- (2) Any museum open to the public.
- (3) Any area established as a nonsmoking area, so long as at least twenty percent (20%) of the interior space of equal quality to that of the nonsmoking area shall be designated as a smoking area, unless physically impracticable. If physically impracticable, the person in charge of the facility shall provide an adequate smoking area within the facility as near as feasible to twenty percent (20%) of the interior space.
- (4) Any indoor space in a State-controlled building such as an auditorium, arena, or coliseum, or an appurtenant building thereof; except that a designated area for smoking shall be established in lobby areas.
- (5) Any educational buildings primarily involved in health care instruction.
- (6) University of North Carolina health services facilities, wellness centers, enclosed physical education facilities, enclosed student recreational centers, laboratories, or residence halls, provided that each constituent institution shall make a reasonable effort to provide residential smoking rooms in residence halls in proportion to student demand for those rooms."

**SECTION 2.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 23<sup>rd</sup> day of June, 2003.

Became law upon approval of the Governor at 4:36 p.m. on the 4<sup>th</sup> day of July, 2003.

**S.B. 952**

**Session Law 2003-293**

AN ACT TO MAKE NEW CHALLENGE GRANTS AVAILABLE FROM THE DISTINGUISHED PROFESSORS ENDOWMENT TRUST FUND FOR CERTAIN CONSTITUENT INSTITUTIONS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Part 4A of Chapter 116 of the General Statutes is amended by adding a new section to read:

**"§ 116-41.13.1. Distinguished Professors Endowment Trust Fund; definitions.**

The following definitions apply in this Part:

- (1) "Focused growth institution" means Elizabeth City State University, Fayetteville State University, North Carolina Agricultural and Technical University, North Carolina Central University, The University of North Carolina at Pembroke, Western Carolina University, and Winston-Salem State University.
- (2) "Special needs institution" means the North Carolina School of the Arts and The University of North Carolina at Asheville."

**SECTION 2.** G.S. 116-41.15 reads as rewritten:

**"§ 116-41.15. Distinguished Professors Endowment Trust Fund; definitions; allocation; administration.**

(a) For constituent institutions other than focused growth institutions and special needs institutions, ~~The~~ the amount appropriated to the trust shall be allocated by the Board as follows:

- (1) On the basis of one three hundred thirty-four thousand dollar (\$334,000) challenge grant for each six hundred sixty-six thousand dollars (\$666,000) raised from private sources; or
- (2) On the basis of one hundred sixty-seven thousand dollar (\$167,000) challenge grant for each three hundred thirty-three thousand dollars (\$333,000) raised from private sources.

If an institution chooses to pursue the use of the allocated challenge grant funds described in either subdivision (1) or subdivision (2) of this ~~section~~subsection, the funds shall be matched on a two-to-one basis.

(b) For focused growth institutions and special needs institutions, the amount appropriated to the trust shall be allocated by the Board as follows:

- (1) On the basis of one five hundred thousand dollar (\$500,000) challenge grant for each five hundred thousand dollars (\$500,000) raised from private sources; or
- (2) On the basis of one two hundred fifty thousand dollar (\$250,000) challenge grant for each two hundred fifty thousand dollars (\$250,000) raised from private sources. If an institution chooses to pursue the use of the allocated challenge grant funds described in either subdivision (1) or subdivision (2) of this subsection, the funds shall be matched on a one-to-one basis.

(c) Matching funds shall come from contributions made after July 1, 1985, and pledged for the purposes specified by G.S. 116-41.14. Each participating constituent institution's board of trustees shall establish its own Distinguished Professors Endowment Trust Fund, and shall maintain it pursuant to the provision of G.S. 116-36 to function as a depository for private contributions and for the State matching funds for the challenge grants. The State matching funds shall be transferred to the constituent institution's Endowment Fund upon notification that the institution has received and deposited the appropriate amount required by this section in its own Distinguished Professors Endowment Trust Fund. Only the net income from that account shall be expended in support of the distinguished professorship thereby created."

**SECTION 3.** G.S.116-41.16 reads as rewritten:**"§ 116-41.16. Distinguished Professors Endowment Trust Fund; contribution commitments.**

(a) For constituent institutions other than focused growth institutions and special needs institutions, Contributions-contributions may also be eligible for matching if there is:

- (1) A commitment to make a donation of at least six hundred sixty-six thousand dollars (\$666,000), as prescribed by G.S. 143-31.4, and an initial payment of one hundred eleven thousand dollars (\$111,000) to receive a grant described in G.S. 116-41.15(a)(1); or
- (2) A commitment to make a donation of at least three hundred thirty-three thousand dollars (\$333,000), as prescribed by G.S. 143-31.4, and an initial payment of fifty-five thousand five hundred dollars (\$55,500) to receive a grant described in G.S. 116-41.15(a)(2); and if the initial payment is accompanied by a written pledge to provide the balance within five years after the date of the initial payment. Each payment on the balance shall be no less than the amount of the initial payment and shall be made on or before the anniversary date of the initial payment. Pledged contributions may not be matched prior to the actual collection of the total funds. Once the income from the institution's Distinguished Professors Endowment Trust Fund can be effectively used pursuant to G.S. 116-41.17, the institution shall proceed to implement plans for establishing an endowed chair.

(b) For focused growth institutions and special needs institutions, contributions may also be eligible for matching if there is:

- (1) A commitment to make a donation of at least five hundred thousand dollars (\$500,000), as prescribed by G.S. 143-31.4, and an initial payment of eighty-three thousand three hundred dollars (\$83,300) to receive a grant described in G.S. 116-41.15(b)(1); or
- (2) A commitment to make a donation of at least two hundred fifty thousand dollars (\$250,000), as prescribed by G.S. 143-31.4, and an initial payment of forty-one thousand six hundred dollars (\$41,600) to receive a grant described in G.S. 116-41.15(b)(2); and if the initial payment is accompanied by a written pledge to provide the balance within five years after the date of the initial payment. Each payment on the balance shall be no less than the amount of the initial payment. Pledged contributions may not be matched prior to the actual collection of the total funds. Once the income from the institution's Distinguished Professors Endowment Trust Fund can be effectively used pursuant to G.S. 116-41.17, the institution shall proceed to implement plans for establishing an endowed chair."

**SECTION 4.** This act becomes effective July 1, 2003.

In the General Assembly read three times and ratified this the 23<sup>rd</sup> day of June, 2003.

Became law upon approval of the Governor at 4:37 p.m. on the 4<sup>th</sup> day of July, 2003.

AN ACT TO CLARIFY THE LICENSING PROCESS FOR NEW GROUP HOME FACILITIES AND FOR THE REIMBURSEMENT OF EDUCATIONAL COSTS BY THE HOME COUNTY TO THE HOST COUNTY.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 115C-140.1 reads as rewritten:

"§ 115C-140.1. **Cost of education of children in group homes, foster homes, etc.**

(a) **(Effective until July 1, 2003)** Notwithstanding the provisions of any other statute and without regard for the place of domicile of a parent or guardian, the cost of a free appropriate public education for a child with special needs who is placed in or assigned to a group home, foster home or other similar facility, pursuant to State and federal law, shall be borne by the local board of education in which the group home, foster home or other similar facility is located. Nothing in this section obligates any local board of education to bear any cost for the care and maintenance of a child with special needs in a group home, foster home or other similar facility.

(a) **(Effective July 1, 2003)** Notwithstanding the provisions of any other statute and without regard for the place of domicile of a parent or guardian, the cost of a free appropriate public education for a child with ~~special needs disabilities~~ who is placed in or assigned to a ~~group home, home or foster home or other similar facility, home,~~ pursuant to State and federal law, shall be borne by the local board of education in which the group ~~home, home or foster home or other similar facility~~ is located. However, the local school administrative unit in which a child is domiciled shall transfer to the local school administrative unit in which the institution is located an amount equal to the actual local cost in excess of State and federal funding required to educate that child in the local school administrative unit for the fiscal ~~year~~ year after all State and federal funding has been exhausted. ~~Nothing in this section obligates any local board of education to bear any cost for the care and maintenance of a child with special needs in a group home, foster home or other similar facility.~~

(b) The State Board of Education shall use State and federal funds appropriated for children with special needs to establish a reserve fund to reimburse local boards of education for the education costs of children assigned to group homes or other facilities as provided in subsection (a) of this section. Local school administrative units may submit a Special State Reserve Program application for foster home or group home children whose special education and related services costs exceed the per child group home allocation.

(c) The Department shall review the current cost of children with disabilities served in the local school administrative units with group homes or foster homes to determine the actual cost of services."

**SECTION 2.** G.S. 122C-23 reads as rewritten:

"§ 122C-23. **Licensure.**

(a) No person shall establish, maintain, or operate a licensable facility for the mentally ill, developmentally disabled, or substance abusers without a current license issued by the Secretary.

(b) Each license is issued to the person only for the premises named in the application and shall not be transferable or assignable except with prior written approval of the Secretary.

(c) Any person who intends to establish, maintain, or operate a licensable facility shall apply to the Secretary for a license. The Secretary shall prescribe by rule the contents of the application forms.

(d) The Secretary shall issue a license if the Secretary finds that the person complies with this Article and the rules of the Commission and Secretary.

(e) Unless a license is provisional or has been suspended or revoked, it shall be valid for a period not to exceed two years from the date of issue. The expiration date of a license shall be specified on the license when issued. Renewal of a regular license is contingent upon receipt of information required by the Secretary for renewal and continued compliance with this Article and the rules of the Commission and the Secretary.

A provisional license for a period not to exceed six months may be granted by the Secretary to a person who is temporarily unable to comply with a rule or rules. During this period the licensable facility shall correct the noncompliance based on a plan submitted to and approved by the Secretary. The noncompliance may not present an immediate threat to the health and safety of the individuals in the licensable facility. A provisional license for an additional period of time to meet the noncompliance may not be issued.

(e1) Except as provided in subsection (e2) of this section, The Department the Secretary shall not enroll any new provider for Medicaid Home or Community Based services or other Medicaid services, as defined in 42 C.F.R. 440.90, 42 C.F.R. 440.130(d), and 42 C.F.R. 440.180, or issue a license for a new facility or a new service to any applicant meeting any of the following criteria:

- (1) Was The applicant was the owner, principal, or affiliate of a licensable facility under Chapter ~~122C~~122C, or Chapter ~~131D~~131D, or Article 7 of Chapter 110 that had its license revoked until 60 months after the date of the revocation.
- (2) Is The applicant is the owner, principal, or affiliate of a licensable facility that was assessed a penalty for a Type A or Type B violation under Article 3 of this Chapter until 60 months after the date of the violation Chapter, or any combination thereof, and any one of the following conditions exist:
  - a. A single violation has been assessed in the six months prior to the application.
  - b. Two violations have been assessed in the 18 months prior to the application and 18 months have not passed from the date of the most recent violation.
  - c. Three violations have been assessed in the 36 months prior to the application and 36 months have not passed from the date of the most recent violation.
  - d. Four or more violations have been assessed in the 60 months prior to application and 60 months have not passed from the date of the most recent violation.
- (3) Is The applicant is the owner, principal, or affiliate of a licensable facility that had its license summarily suspended or downgraded to provisional status as a result of violations under G.S. 122C-24.1(a) until 60 months after the date of reinstatement or restoration of the license.

- (4) ~~Is~~The applicant is the owner, principal, or affiliate of a licensable facility that had its license summarily suspended or downgraded to provisional status as a result of violations under Article 1A of Chapter 131D until 60 months after the date of reinstatement or restoration of the license.

(e2) The Secretary may enroll a provider described in subsection (e1) of this section if any of the following circumstances apply:

- (1) The applicant is an area program or county program providing services under G.S. 122C-141, and there is no other provider of the service in the catchment area.
- (2) The Secretary finds that the area program or county program has shown good cause by clear and convincing evidence why the enrollment should be allowed.

(e3) For purposes of subdivision (e1)(2), fines assessed prior to October 23, 2002, are not applicable to this provision. However, licensure or enrollment shall be denied if an applicant's history as a provider under Chapter 131D, Chapter 122C, or Article 7 of Chapter 110 is such that the Secretary has concluded the applicant will likely be unable to comply with licensing or enrollment statutes, rules, or regulations. In the event the Secretary denies licensure or enrollment under this subsection, the reasons for the denial and appeal rights pursuant to Article 3 of Chapter 150B shall be given to the provider in writing.

(f) Upon written application and in accordance with rules of the Commission, the Secretary may for good cause waive any of the rules implementing this Article, provided those rules do not affect the health, safety, or welfare of the individuals within the licensable facility. Decisions made pursuant to this subsection may be appealed to the Commission for a hearing in accordance with Chapter 150B of the General Statutes.

(g) The Secretary may suspend the admission of any new clients to a facility licensed under this Article where the conditions of the facility are detrimental to the health or safety of the clients. This suspension shall be for the period determined by the Secretary and shall remain in effect until the Secretary is satisfied that conditions or circumstances merit removal of the suspension. In suspending admissions under this subsection, the Secretary shall consider the following factors:

- (1) The degree of sanctions necessary to ensure compliance with this section and rules adopted to implement this subsection, and
- (2) The character and degree of impact of the conditions at the facility on the health or safety of its clients.

A facility may contest a suspension of admissions under this subsection in accordance with Chapter 150B of the General Statutes. In contesting the suspension of admissions, the facility must file a petition for a contested case within 20 days after the Department mails notice of suspension of admissions to the licensee."

**SECTION 3.** G.S. 131D-2(b)(1b) reads as rewritten:

"(1b) No new license shall be issued for any adult care home to an applicant for licensure who:

- a. Was the owner, principal, or affiliate of an adult care home a licensable facility under Chapter 122C, Chapter 131D, or Article 7 of Chapter 110 that had its license revoked until one full year after the date of revocation;



- b. Is the owner, principal, or affiliate of an adult care home that was assessed a penalty for a Type A or Type B violation until the earlier of one year from the date the penalty was assessed or until the home has substantially complied with the correction plan established pursuant to G.S. 131D-34 and substantial compliance has been certified by the Department; or
- c. Is the owner, principal, or affiliate of an adult care home that had its license summarily suspended or downgraded to provisional status as a result of Type A or B violations until six months from the date of reinstatement of the license, restoration from provisional to full licensure, or termination of the provisional license, as applicable.
- d. Is the owner, principal, or affiliate of a licensable facility that had its license summarily suspended or downgraded to provisional status as a result of violations under Chapter 122C, or Article 1 of Chapter 131D, or had its license summarily suspended or denied under Article 7 of Chapter 110 until six months from the date of the reinstatement of the license, restoration from provisional to full licensure, or termination of the provisional license, as applicable.

An applicant for new licensure may appeal a denial of certification of substantial compliance under subparagraph b. of this subdivision by filing with the Department a request for review by the Secretary within 10 days of the date of denial of the certification. Within 10 days of receipt of the request for review the Secretary shall issue to the applicant a written determination that either denies certification of substantial compliance or certifies substantial compliance. The decision of the Secretary is final."

**SECTION 4.** G.S. 131D-10.3 reads as rewritten:

**"§ 131D-10.3. Licensure required.**

(a) No person shall operate, establish or provide foster care for children or receive and place children in residential care facilities, family foster homes, or adoptive homes without first applying for a license to the Department and submitting the required information on application forms provided by the Department.

(b) Persons licensed or seeking a license under this Article shall permit the Department access to premises and information required to determine whether the person is in compliance with licensing rules of the Commission.

(c) Persons licensed pursuant to this Article shall be periodically reviewed by the Department to determine whether they comply with Commission rules and whether licensure shall continue.

(d) This Article shall apply to all persons intending to organize, develop or provide foster care for children or receive and place children in residential child-care facilities, family foster homes or adoptive homes irrespective of such persons having applied for or obtained a certification, registration or permit to carry on work not controlled by this Article except persons exempted in G.S. 131D-10.4.

(e) Unless revoked or modified to a provisional or suspended status, the terms of a license issued by the Department shall be in force for a period not to exceed 24 months from the date of issuance under rules adopted by the Commission.

(f) Persons licensed or seeking a license who are temporarily unable to comply with a rule or rules may be granted a provisional license. The provisional license can be issued for a period not to exceed six months. The noncompliance with a rule or rules shall not present an immediate threat to the health and safety of the children, and the person shall have a plan approved by the Department to correct the area(s) of noncompliance within the provisional period. A provisional license for an additional period of time to meet the same area(s) of noncompliance shall not be issued.

(g) In accordance with Commission rules, a person may submit to the Department documentation of compliance with the standards of a nationally recognized accrediting body, and the Department on the basis of such accreditation may deem the person in compliance with one or more Commission licensing rules.

(h) Except as provided in subsection (i) of this section, the Secretary ~~The Department~~ shall not enroll any new provider for Medicaid Home or Community Based services or other Medicaid services, as defined in 42 C.F.R. 440.90, 42 C.F.R. 440.130(d), and 42 C.F.R. 440.180, or issue a license for a new facility or a new service to any applicant meeting any of the following criteria:

- (1) ~~Was~~ The applicant was the owner, principal, or affiliate of a licensable facility under Chapter ~~122C~~ or 122C, Chapter ~~131D~~131D, or Article 7 of Chapter 110 that had its license revoked until 60 months after the date of the revocation.
- (2) ~~Is~~ The applicant is the owner, principal, or affiliate of a licensable facility that was assessed a penalty for a Type A or Type B violation under Article 3 of Chapter ~~122C~~ until 60 months after the date of the violation. Chapter 122C, or any combination thereof, and any one of the following conditions exist:
  - a. A single violation has been assessed in the six months prior to the application.
  - b. Two violations have been assessed in the 18 months prior to the application and 18 months have not passed from the date of the most recent violation.
  - c. Three violations have been assessed in the 36 months prior to the application and 36 months have not passed from the date of the most recent violation.
  - d. Four or more violations have been assessed in the 60 months prior to application and 60 months have not passed from the date of the most recent violation.
- (3) ~~Is~~ The applicant is the owner, principal, or affiliate of a licensable facility that had its license summarily suspended or downgraded to provisional status as a result of violations under G.S. 122C- 24.1(a) until 60 months after the date of reinstatement or restoration of the license.
- (4) ~~Is~~ The applicant is the owner, principal, or affiliate of a licensable facility that had its license summarily suspended or downgraded to provisional status as a result of violations under Article 1A of Chapter ~~131D~~131D, or had its license summarily suspended or denied under Article 7 of Chapter 110 until 60 months after the date of reinstatement or restoration of the license.

(i) The Secretary may enroll a provider described in subsection (h) of this section if any of the following circumstances apply:

- (1) The applicant is an area program or county program providing services under G.S. 122C-141, and there is no other provider of the service in the catchment area.
- (2) The Secretary finds that the area program or county program has shown good cause by clear and convincing evidence why the enrollment should be allowed.

(j) For purposes of subdivision (h)(2) of this section, fines assessed prior to October 23, 2002, are not applicable to this provision. However, licensure or enrollment shall be denied if an applicant's history as a provider under Chapter 131D, Chapter 122C, or Article 7 of Chapter 110 is such that the Secretary has concluded the applicant will likely be unable to comply with licensing or enrollment statutes, rules, or regulations. In the event the Secretary denies licensure or enrollment under this subsection, the reasons for the denial and appeal rights pursuant to Article 3 of Chapter 150B shall be given to the provider in writing."

**SECTION 5.** Section 3 of S.L. 2002-164 reads as rewritten:

**"SECTION 3.** The State Board of Education shall provide for a local school administrative unit to request funds from the Group Homes Program for Children with Disabilities if a child assigned to that unit was not in that unit's April ~~headcount~~ child count for exceptional children with disabilities or the average daily membership for the previous school year, even if the local school administrative unit received Group Homes Program funds for that child for a portion of the preceding school year. The local school administrative unit shall receive full school year funding upon the local school unit's request for group home or foster home program funds. These funds may not be requested except by a local school administrative unit."

**SECTION 6.(a)** The Department of Health and Human Services, in conjunction with the Department of Juvenile Justice and Delinquency Prevention, and the Department of Public Instruction shall report on the following Program information:

- (1) The number and other demographic information of children served utilizing Comprehensive Treatment Services Program funds or who are placed out of their home under the auspices of one of the referenced agencies.
- (2) The amount and source of funds expended to implement the Program.
- (3) Information regarding the number of children screened for mental health, developmental disabilities, or substance abuse; specific placement of children including the placement of children in programs or facilities outside of the child's home county; and treatment needs of children served.
- (4) The average length of stay in residential treatment, transition, and return to home.
- (5) The number of children diverted from institutions or other out-of-home placements such as training schools and State psychiatric hospitals and a description of the services provided.
- (6) Recommendations on other areas that need to be improved.
- (7) Other information relevant to successfully maintaining children in their county of residence.
- (8) A method of identifying and reporting child placements outside of the family unit in group homes or therapeutic foster care home settings.

**SECTION 6.(b)** The Department of Health and Human Services, in conjunction with the Department of Juvenile Justice and Delinquency Prevention, and the Department of Public Instruction shall submit a report by April 1, 2004, on the method of identifying and reporting child placements outside of the family unit in group homes or therapeutic foster care home settings to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division.

**SECTION 7.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 23<sup>rd</sup> day of June, 2003.

Became law upon approval of the Governor at 4:38 p.m. on the 4<sup>th</sup> day of July, 2003.

**S.B. 881****Session Law 2003-295**

AN ACT TO PERMIT PHASE II PAYMENTS UNDER THE NATIONAL TOBACCO GROWER SETTLEMENT TRUST TO BE PAID WITHOUT REOPENING A DECEDENT'S ESTATE, AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Article 15 of Chapter 28A of the General Statutes is amended by adding a new section to read:

**"§ 28A-15-9.1. Phase II payments.**

A Phase II payment as defined in G.S. 28A-21-3.1 shall be the property of the distributees paid in accordance with that section."

**SECTION 2.** Article 21 of Chapter 28A of the General Statutes is amended by adding a new section to read:

**"§ 28A-21-3.1. Phase II tobacco grower and quota owner payments; list of Phase II distributees.**

(a) The following definitions apply in this section:

(1) "National Tobacco Grower Settlement Trust" means the trust established by tobacco companies to provide payments to tobacco growers and tobacco quota owners in 14 states for the purposes of ameliorating potential adverse economic consequences of likely reduction in demand, sales, and prices for tobacco as an agricultural product as a result of the Master Settlement Agreement incorporated in the consent decree entered in the action of State of North Carolina vs. Philip Morris, Incorporated, et al., 98 CVS 14377, in the General Court of Justice, Superior Court Division, Wake County, North Carolina.

(2) "Phase II payment" means an amount certified by the North Carolina Phase II Tobacco Certification Entity, Inc., to be paid pursuant to the trust agreement establishing the National Tobacco Grower Settlement Trust.

(b) A personal representative or collector of the estate of a decedent who, during 1993 or any subsequent year, was a tobacco grower or a tobacco quota owner as defined in Section 4.01 of the trust agreement establishing the National Tobacco Grower

Settlement Trust may file, along with a final account, a list of Phase II distributees for Phase II payments if all of the following conditions are met:

- (1) There are no unsatisfied creditors.
- (2) There are no unsatisfied general monetary bequests.
- (3) All assets other than any potential Phase II payments have been distributed.

(c) A list of Phase II distributees, signed under oath, must contain the following information:

- (1) The name and address of the personal representative or collector.
- (2) The name and social security number of the decedent.
- (3) The name and address, if known, of each devisee or heir entitled to receive Phase II payments and the percentage of Phase II payments to be received by each.

(d) The clerk of superior court must review the list of Phase II distributees to determine if the list of distributees and their shares of potential Phase II payments are in accordance with the will or, if there is no will, in accordance with the Intestate Succession Act. If the clerk accepts the list of Phase II distributees for filing, the clerk must endorse the clerk's approval thereon, which shall be prima facie evidence of correctness.

(e) Upon determination by the North Carolina Phase II Tobacco Certification Entity, Inc., that the estate of a decedent entitled to any Phase II payment covering a time period when the decedent was alive has been closed, the payment may be paid directly to those distributees and in those shares set forth on a list of Phase II distributees filed under this section without the estate's having to be reopened under G.S. 28A-23-5.

(f) The estate of a decedent who is entitled to any Phase II payment may be reopened, if necessary, in accordance with G.S. 28A-23-5 in order to file a list of Phase II distributees under this section.

(g) For purposes of this section, Phase II payments covering a time period when decedent was alive are deemed cash and shall not pass by virtue of any devise or inheritance of the decedent's real property."

**SECTION 3.** This act is effective when it becomes law and applies to payments made on or after that date.

In the General Assembly read three times and ratified this the 24<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 4:39 p.m. on the 4<sup>th</sup> day of July, 2003.

## **H.B. 807**

## **Session Law 2003-296**

### **AN ACT TO CLARIFY CERTAIN PROVISIONS OF THE LAW ESTABLISHING THE ELECTIVE SHARE OF A DECEDENT'S SURVIVING SPOUSE.**

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 30-3.1 reads as rewritten:

**"§ 30-3.1. Right of elective share.**

(a) Elective Share. – The surviving spouse of a decedent who dies domiciled in this State has a right to claim an "elective share", which means an amount equal to (i) the applicable share of the Total Net Assets, as defined in ~~G.S. 30-3.2(c)~~, G.S. 30-3.2(4),

less (ii) the value of Property Passing to Surviving Spouse, as defined in G.S. 30-3.3(a). The applicable share of the Total Net Assets is as follows:

- (1) If the decedent is not survived by any lineal descendants, one-half of the Total Net Assets.
- (2) If the decedent is survived by one child, or lineal descendants of one deceased child, one-half of the Total Net Assets.
- (3) If the decedent is survived by two or more children, or by one or more children and the lineal descendants of one or more deceased children, or by the lineal descendants of two or more deceased children, one-third of the Total Net Assets.

(b) Reduction of Applicable Share. – In those cases in which the surviving spouse is a second or successive spouse, and the decedent has one or more lineal descendants surviving by a prior marriage but there are no lineal descendants surviving by the surviving spouse, the applicable share as determined in subsection (a) of this section shall be reduced by one-half.

(c) Death Taxes. – Death taxes shall be taken into account as a claim against the estate in determining Total Net Assets only to the extent that ~~such taxes are increased because~~ the assets received by the surviving spouse do not qualify for the federal estate tax marital deduction pursuant to section 2056 of the Code or similar provisions under the laws of any other applicable taxing jurisdiction. The amount of such claims shall equal the difference between the amount of such death taxes as finally determined and the amount such death taxes would have been if all assets received by the surviving spouse had qualified for the federal estate tax marital deduction pursuant to section 2056 of the Code and similar provisions under the laws of any other applicable taxing jurisdictions.

**SECTION 2.** G.S. 30-3.2 reads as rewritten:

**"§ 30-3.2. Definitions.**

The following definitions apply in this Article:

- (1) "Code" means the Internal Revenue Code in effect at the time of the decedent's death.
- (2) "Death taxes" means any estate, inheritance, succession, and similar taxes imposed by any taxing authority, reduced by any applicable credits against those taxes.
- (3) "Nonadverse trustee" ~~means a trustee who would be deemed nonadverse under section 672 of the Code.~~ means:
  - a. Any person who does not possess a substantial beneficial interest in the trust that would be adversely affected by the exercise or nonexercise of the power that the individual trustee possesses respecting the trust;
  - b. Any person subject to a power of removal by the surviving spouse with or without cause; or
  - c. Any company authorized to engage in trust business under the laws of this State, or that otherwise meets the requirements to engage in trust business under the laws of this State.
- (4) "Total Net Assets" means, after the payment or provision for payment of the decedent's funeral expenses, year's allowances to persons other than to the surviving spouse, debts, claims other than an equitable distribution of property awarded to the surviving spouse pursuant to

G.S. 50-20 subsequent to the death of the decedent, and administration expenses, the sum of the following:

- a. All property to which the decedent had legal and equitable title immediately prior to death;
- b. All property received by the decedent's personal representative by reason of the decedent's death, other than wrongful death proceeds;
- c. One-half of the value of any property held by the decedent and the surviving spouse as tenants by the entirety, or as joint tenants with rights of survivorship;
- d. The entire value of any interest in property held by the decedent and another person, other than the surviving spouse, as joint tenants with right of survivorship, except to the extent that contribution can be proven by clear and convincing evidence;
- e. The value of any property which would be included in the taxable estate of the decedent pursuant to sections 2033, 2035, 2036, 2037, 2038, 2039, or 2040 of the Code.
- f. Any ~~donative transfers~~ gifts of property made by the decedent to donees other than the surviving spouse within six months of the decedent's death, excluding:
  1. Any gifts within the annual exclusion provisions of section 2503 of the Code;
  2. Any gifts to which the surviving spouse consented. A signing of a deed, or income or gift tax return reporting such gift shall be considered consent; and
  3. Any gifts made prior to marriage;
- g. Any proceeds of any individual retirement account, pension or profit-sharing plan, or any private or governmental retirement plan or annuity of which the decedent controlled the designation of beneficiary, excluding any benefits under the federal social security system;
- h. Any other Property Passing to Surviving Spouse under G.S. 30-3.3; and
- i. In case of overlapping application of the same property under more than one provision, the property shall be included only once under the provision yielding the greatest value."

**SECTION 3.** G.S. 30-3.3(a) reads as rewritten:

**"§ 30-3.3. Property passing to surviving spouse.**

(a) Property Passing to Surviving Spouse. – For purposes of this Article, "Property Passing to Surviving Spouse" means the sum of the following:

- (1) One-half of the value of any interest in property held by the decedent and the surviving spouse as tenants by the entirety or as joint tenants with rights of survivorship;
- (2) The value of any interest in property (outright or in trust, including any interest subject to a general power of appointment held by the surviving spouse, as defined in section 2041 of the Code) devised by the decedent to the surviving spouse, or which passes to the surviving spouse by intestacy, or by beneficiary designation, or by exercise of or in default of the exercise of the decedent's testamentary general or

limited power of appointment, or by operation of law or otherwise by reason of the decedent's death, excluding any benefits under the federal social security system;

- (3) Any year's allowance awarded to the surviving spouse;
- (4) The value of any property renounced by the surviving spouse;
- (5) The value of the surviving spouse's interest, outright or in trust, in any life insurance proceeds on the life of the decedent;
- (6) The value of any interest in property, outright or in trust, transferred from the decedent to the surviving spouse during the lifetime of decedent for which (i) a gift tax return is timely filed reporting such gift, or (ii) the surviving spouse signs a statement acknowledging such a gift. For purposes of this subdivision, any gift to the surviving spouse by the decedent of the decedent's interest in any property held by the decedent and the surviving spouse as tenants by the entirety or as joint tenants with right of survivorship shall be valued at one-half of the entire value of that interest in property at the time the gift is made;
- (7) ~~The Notwithstanding any other provision of law related to valuing a partial interest in property, the entire fair market value of any property held in trust for the exclusive benefit of the surviving spouse during the surviving spouse's lifetime, where the trust requires a Nonadverse Trustee to utilize the principal and income of the trust for the support and maintenance of the surviving spouse; and if the terms of the trust meet the following requirements:~~
  - a. During the lifetime of the surviving spouse, the trust is controlled by one or more Nonadverse Trustees;
  - b. The trustee is required to distribute to or for the benefit of the surviving spouse either (i) the entire net income of the trust at least annually; or (ii) the income of the trust in such amounts and at such times as the trustee, in its discretion, determines necessary for the health, maintenance, and support of the surviving spouse;
  - c. The trustee is required to distribute to or for the benefit of the surviving spouse out of the principal of the trust such amounts and at such times as the trustee, in its discretion, determines necessary for the health, maintenance, and support of the surviving spouse; and  
In exercising discretion, the trustee may be authorized or required to take into consideration all other income, assets, and other means of support as are available to the surviving spouse; and
- (8) The net value of the marital estate awarded to the surviving spouse pursuant to G.S. 50-20 subsequent to the death of the decedent."

**SECTION 4.** G.S. 30-3.4 reads as rewritten:

**"§ 30-3.4. Procedure for determining the elective share.**

(a) **Exercisable Only During Lifetime.** – The right of the surviving spouse to file a claim for an elective share must be exercised during the lifetime of the surviving spouse, by the surviving spouse, the surviving spouse's agent under a power of attorney, or the guardian of the surviving spouse's estate. If a surviving spouse dies before the claim for an elective share has been settled, the surviving spouse's personal representative shall succeed to the surviving spouse's rights to an elective share.



(b) Time Limitations. – A claim for an elective share must be made within six months after the issuance of letters testamentary or letters of administration in connection with the will or intestate proceeding with respect to which the surviving spouse claims the elective share by (i) filing a petition with the clerk of superior court of the county in which the primary administration of the decedent's estate lies, and (ii) mailing or delivering a copy of that petition to the personal representative of the decedent's estate. A surviving spouse's incapacity shall not toll the six-month period of limitations.

(c) Time for Hearing. – Unless waived by the personal representative and the surviving spouse, the clerk shall set the matter for hearing no earlier than two months and no later than six months after the filing of the petition. However, the clerk may extend the time of hearing as the clerk sees fit. The surviving spouse shall give notice of the hearing to the personal representative, and to any person described in G.S. 30-3.5 who may be required to contribute toward the satisfaction of the elective share.

(d) Preparation of Tax Form. – In every case in which a petition to determine an elective share has been filed, and within two months of the filing of the petition, the personal representative shall prepare and submit to the clerk a proposed Form 706, federal estate tax return, for the estate, regardless of whether that form is required to be filed with the Internal Revenue Service. The clerk may extend the time for submission of the proposed Form 706 as the clerk sees fit.

(e) Valuation. – The valuation of interests in property for purposes of G.S. 30-3.2 and G.S. 30-3.3 shall be determined as follows:

(1) Basic principles. – Each interest shall be valued at its fair market value, reduced by all liens, claims, or encumbrances against the interest. For interests passing at the decedent's death, valuation shall be as of the date of death, and for interests transferred during the decedent's lifetime, valuation shall be as of the date of transfer.

(2) Valuation of partial and contingent interests in property. – The valuation of interests in property, outright or in trust, which are limited to commence or terminate upon the death of one or more persons, upon the expiration of a period of time, or upon the occurrence of one or more contingencies, shall be determined by computations based upon the mortuary and annuity tables set forth in G.S. 8-46 and G.S. 8-47, and upon the basis of six percent (6%) of the gross value of the underlying property in which those interests are limited. However, in valuing interests passing to the surviving spouse, the following special rules apply:

a. ~~To the extent that the interest is dependent upon the exercise of discretion by a fiduciary, the interest shall have no value unless the spouse is serving as that fiduciary and the power to distribute the trust property constitutes a general power of appointment held by the spouse, as defined in section 2041 of the Code or the fiduciary is a Nonadverse Trustee required to utilize the income and principal for the exclusive benefit of the surviving spouse during the surviving spouse's lifetime;~~ An interest described in G.S. 30-3.3(a)(7) that shall be valued as if the underlying property or interest passed outright to the surviving spouse unencumbered by any trust;

- b. To the extent that the interest is dependent upon the occurrence of any contingency that is not subject to the control of the surviving spouse and that is not subject to valuation by reference to the mortuary and annuity tables set forth in G.S. 8-46 and G.S. 8-47, the contingency will be conclusively presumed to result in the lowest possible value passing to the surviving spouse. However, a life estate or income interest that will terminate only upon the earlier of the surviving spouse's death or remarriage will be valued without regard to the possibility of termination upon remarriage; and
  - c. To the extent that the valuation of an interest is dependent upon the life expectancy of the surviving spouse, that life expectancy shall be conclusively presumed to be no less than 10 years, regardless of the actual attained age of the surviving spouse at the decedent's death.
- (3) Determination of fair market value. – The fair market value of each asset comprising Total Net Assets shall be determined as follows:
- a. Probate assets and assets passing to spouse. – The value of each probate asset and Property Passing to Surviving Spouse, other than assets held in trust, shall be established by the good faith agreement of the surviving spouse and the personal representative, unless either (i) the surviving spouse is the personal representative, or (ii) the clerk determines that the personal representative may not be able to represent the estate adversely to the surviving spouse.
  - b. Trust assets. – The value of each trust asset shall be established by good faith agreement of the surviving spouse and the trustee, unless either (i) the surviving spouse is the trustee, or (ii) the clerk determines that the trustee may not be able to represent the trust adversely to the surviving spouse.
  - c. Other assets. – The value of any other asset shall be established by the good faith agreement of the surviving spouse and each person described in G.S. 30-3.5 who may be required to contribute toward the satisfaction of the elective share because of that person's interest in the asset, unless the clerk determines that valuation under sub-subdivision d. of this subdivision is more appropriate.
  - d. Use of disinterested persons. – If the value of any asset is not established by agreement, the clerk shall appoint one or more qualified and disinterested persons to determine a value of each asset. That determination of the value of an asset shall be final for the exclusive purposes of this Article.
- (f) Findings and Conclusions. – After notice and hearing, the clerk shall determine whether or not the surviving spouse is entitled to an elective share, and if so, the clerk shall then determine the elective share and shall order the personal representative to transfer that amount to the surviving spouse. The clerk's order shall recite specific findings of fact and conclusions of law in arriving at the decedent's Total Net Assets, Property Passing to Surviving Spouse, and the elective share.

(g) Appeals. – Any party in interest may appeal from the decision of the clerk to the superior court. If an appeal is taken from the decision of the clerk, that appeal shall have the effect of staying the judgment and order of the clerk until the cause is heard and determined by the superior court upon the appeal taken. Upon an appeal taken from the clerk to the superior court, the judge may review the findings of fact by the clerk and may find the facts or take other evidence, but the facts found by the judge shall be final and conclusive upon any appeal to the Appellate Division."

**SECTION 5.** G.S. 30-3.6 is amended by adding a new subsection to read:

"(c) A written waiver that would have been effective to waive a spouse's right to dissent in estates of decedents dying on or before December 31, 2000, under Article 1 of Chapter 30 of the General Statutes is effective to waive that spouse's right of elective share under this Article for estates of decedent's dying on or after January 1, 2001."

**SECTION 6.** Sections 5 and 6 of this act are effective when this act becomes law. The remainder of this act becomes effective January 1, 2004, and applies to estates of decedents dying on or after that date.

In the General Assembly read three times and ratified this the 24<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 4:40 p.m. on the 4<sup>th</sup> day of July, 2003.

## H.B. 1037

## Session Law 2003-297

AN ACT TO ESTABLISH CRIMINAL PENALTIES FOR ALLOWING JUVENILES TO ESCAPE AND TO ALLOW JUVENILE DETENTION FACILITIES TO PHOTOGRAPH JUVENILES AND TO RELEASE THE PHOTOGRAPHS WHEN THE JUVENILE ESCAPES.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 14-239 reads as rewritten:

"§ 14-239. **Allowing prisoners to escape; punishment.**

If any sheriff, deputy sheriff, ~~or~~ jailer, or other custodial personnel shall willfully or wantonly allow the escape of any person committed to ~~his~~that person's custody who is (i) a person charged with a crime, ~~or~~ (ii) a person sentenced by the court upon conviction of any offense, or (iii) committed to the Department of Juvenile Justice and Delinquency Prevention, ~~he~~that person shall be guilty of a Class 1 misdemeanor. No prosecution shall be brought against any such officer pursuant to this section by reason of a prisoner being allowed to participate pursuant to court order in any work release, work study, community service, or other lawful program, or by reason of any such prisoner failing to return from participation in any such program."

**SECTION 2.** G.S. 7B-2102 reads as rewritten:

"§ 7B-2102. **Fingerprinting and photographing juveniles.**

(a) A law enforcement officer or agency shall fingerprint and photograph a juvenile who was 10 years of age or older at the time the juvenile allegedly committed a nondivertible offense as set forth in G.S. 7B-1701, when a complaint has been prepared for filing as a petition and the juvenile is in physical custody of law enforcement or the Department. A county juvenile detention facility shall photograph a juvenile who has been committed to that facility if the juvenile was at least 10 years old at the time that juvenile allegedly committed a nondivertible offense as set forth in G.S. 7B-1701.

(b) If a law enforcement officer or agency does not take the fingerprints or a photograph of the juvenile pursuant to subsection (a) of this section or the fingerprints or photograph have been destroyed pursuant to subsection (e) of this section, a law enforcement officer or agency shall fingerprint and photograph a juvenile who has been adjudicated delinquent if the juvenile was 10 years of age or older at the time the juvenile committed an offense that would be a felony if committed by an adult.

(c) A law enforcement ~~officer~~ officer, facility, or agency who fingerprints or photographs a juvenile pursuant to this section shall do so in a proper format for transfer to the State Bureau of Investigation and the Federal Bureau of Investigation. After the juvenile, who was 10 years of age or older at the time of the offense, is adjudicated delinquent of an offense that would be a felony if committed by an adult, fingerprints obtained pursuant to this section shall be transferred to the State Bureau of Investigation and placed in the Automated Fingerprint Identification System (AFIS) to be used for all investigative and comparison purposes. Photographs obtained pursuant to this section shall be placed in a format approved by the State Bureau of Investigation and may be used for all investigative or comparison purposes.

(d) Fingerprints and photographs taken pursuant to this section are not public records under Chapter 132 of the General Statutes, shall not be included in the clerk's record pursuant to G.S. 7B-3000, shall be withheld from public inspection or examination, and shall not be eligible for expunction pursuant to G.S. 7B-3200. Fingerprints and photographs taken pursuant to this section shall be maintained separately from any juvenile record, other than the electronic file maintained by the State Bureau of Investigation.

(d1) Notwithstanding subsection (d) of this section, the court may order the release of a juvenile's photograph to the public if the juvenile escapes from a youth development center, other juvenile facility, a holdover facility, or from the custody of juvenile personnel or a local law enforcement officer.

(e) If a juvenile is fingerprinted and photographed pursuant to subsection (a) of this section, the custodian of records shall destroy all fingerprints and photographs at the earlier of the following:

- (1) The juvenile court counselor or prosecutor does not file a petition against the juvenile within one year of fingerprinting and photographing the juvenile pursuant to subsection (a) of this section;
- (2) The court does not find probable cause pursuant to G.S. 7B-2202; or
- (3) The juvenile is not adjudicated delinquent of any offense that would be a felony or a misdemeanor if committed by an adult.

The chief court counselor shall notify the local custodian of records, and the local custodian of records shall notify any other record-holding agencies, when a decision is made not to file a petition, the court does not find probable cause, or the court does not adjudicate the juvenile delinquent."

**SECTION 3.** Section 1 of this act becomes effective December 1, 2003, and applies to offenses committed on or after that date. The remainder of this act becomes effective October 1, 2003.

In the General Assembly read three times and ratified this the 24<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 4:41 p.m. on the 4<sup>th</sup> day of July, 2003.

## S.B. 521

## Session Law 2003-298

## AN ACT TO ENHANCE THE REGULATION OF PYROTECHNIC DISPLAYS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 14-413 reads as rewritten:

"§ 14-413. **Permits for use at public exhibitions.**

(a) For the purpose of enforcing the provisions of this Article, the board of county commissioners of any county ~~is hereby empowered and authorized to~~ may issue permits for use in connection with the conduct of concerts or public exhibitions, such as fairs, carnivals, shows of all descriptions and public exhibitions, but only after satisfactory evidence is produced to the effect that said pyrotechnics will be used for the aforementioned purposes and none other. Provided that no such permit shall be required for a public exhibition authorized by The University of North Carolina or the University of North Carolina at Chapel Hill and conducted on lands or buildings in Orange County owned by The University of North Carolina or the University of North Carolina at Chapel Hill.

(b1) For any indoor use of pyrotechnics at a concert or public exhibition, the board of commissioners may not issue any permit unless the local fire marshal or the State Fire Marshal (or in the case of The University of North Carolina or the University of North Carolina at Chapel Hill it may not authorize such concert or public exhibition unless the State Fire Marshal) has certified that:

- (1) Adequate fire suppression will be used at the site.
- (2) The structure is safe for the use of such pyrotechnics with the type of fire suppression to be used.
- (3) Adequate egress from the building is available based on the size of the expected crowd.

(b2) The requirements of subsection (b1) of this section also apply to any city authorized to grant pyrotechnic permits by local act and to the officer delegated the power to grant such permits by local act."

**SECTION 2.** G.S. 14-410 reads as rewritten:

"§ 14-410. **Manufacture, sale and use of pyrotechnics prohibited; exceptions; sale to persons under the age of 16 prohibited.**

(a) It shall be unlawful for any individual, firm, partnership or corporation to manufacture, purchase, sell, deal in, transport, possess, receive, advertise, use or cause to be discharged any pyrotechnics of any description whatsoever within the State of North Carolina: provided, however, that it shall be permissible for pyrotechnics to be exhibited, used or discharged at concerts or public exhibitions, such as fairs, carnivals, shows of all descriptions and public celebrations: provided, further, that the use of said pyrotechnics in connection with public exhibitions, such as fairs, carnivals, shows of all descriptions and public celebrations, shall be under supervision of experts who have previously secured written authority from the board of county commissioners of the county in which said pyrotechnics are to be exhibited, used or ~~discharged; provided, further, that such discharged, written~~ Written authority from the board of commissioners is not ~~required~~ required, however, for a concert or public exhibition authorized by The University of North Carolina or the University of North Carolina at Chapel Hill and conducted on lands or buildings in Orange County owned by The University of North Carolina or the University of North Carolina at Chapel Hill; ~~provided, further, that it Hill, but such exhibition, use, or discharge of pyrotechnics shall be under supervision of~~

experts who have previously secured written authority from The University of North Carolina or the University of North Carolina at Chapel Hill. Notwithstanding any provision of this section, it shall not be unlawful for a common carrier to receive, transport, and deliver pyrotechnics in the regular course of its business. The requirements of G.S. 14-413(b1) and G.S. 14-413(b2) apply to this section.

(b) Notwithstanding the provisions of G.S. 14-414, it shall be unlawful for any individual, firm, partnership, or corporation to sell pyrotechnics as defined in G.S. 14-414 (2), (3), (4)c., (5), or (6) to persons under the age of 16."

**SECTION 3.** G.S. 14-415 reads as rewritten:

**"§ 14-415. Violation made misdemeanor.**

Any person violating any of the provisions of this Article, except as otherwise specified in said Article, shall be guilty of a Class 2 ~~misdemeanor~~. misdemeanor, except that it is a Class 1 misdemeanor if the exhibition is indoors."

**SECTION 4.** Section 3 of this act becomes effective December 1, 2003, and applies to offenses committed on or after that date. The remainder of the act is effective when it becomes law and applies to any permits granted on or after the effective date.

In the General Assembly read three times and ratified this the 25<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 4:43 p.m. on the 4<sup>th</sup> day of July, 2003.

## **H.B. 1171**

## **Session Law 2003-299**

AN ACT TO MAKE CHANGES IN THE LAW PROHIBITING HAZING.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 14-35 reads as rewritten:

**"§ 14-35. Hazing; definition and punishment.**

It ~~shall be~~ is unlawful for any student in attendance at any university, college ~~college,~~ or school in this State to engage in ~~what is known as~~ hazing, or to aid or abet any other student in the commission of this offense. For the purposes of this section hazing is defined as follows: ~~"to annoy any student by playing abusive or ridiculous tricks upon him, to frighten, scold, beat or harass him, or to subject him to personal indignity."~~ "to subject another student to physical injury as part of an initiation, or as a prerequisite to membership, into any organized school group, including any society, athletic team, fraternity or sorority, or other similar group." Any violation of this section shall constitute a Class 2 misdemeanor."

**SECTION 2.** G.S. 14-36 is repealed.

**SECTION 3.** This act becomes effective December 1, 2003, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 24<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 4:44 p.m. on the 4<sup>th</sup> day of July, 2003.

S.B. 936

Session Law 2003-300

## AN ACT TO WAIVE VARIOUS DEADLINES, FEES, AND PENALTIES FOR DEPLOYED MILITARY PERSONNEL.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Deployed Military Personnel Defined. – As used in this act, the term 'deployed military personnel' includes both of the following:

- (1) A member of the armed forces or the armed forces reserves of the United States on active duty in support of Operation Iraqi Freedom on or after January 1, 2003.
- (2) A member of the North Carolina Army National Guard or the North Carolina Air National Guard called to active duty in support of Operation Iraqi Freedom on or after January 1, 2003.

**SECTION 2.** Proof. – Verification by the military member's command specifying deployment is conclusive evidence of the military member's deployment.

**SECTION 3.** Waiver of Deadlines, Fees, and Penalties. – Except as prohibited by the Constitution, the Governor may extend deadlines and waive penalties or fees as is necessary to alleviate hardship created for deployed military personnel serving in Operation Iraqi Freedom. This authority includes the authority to do all of the following:

- (1) Extend for up to 90 days from the end of deployment the validity of a permanent or temporary drivers license issued under G.S. 20-7 to deployed military personnel.
- (2) Waive civil penalties and restoration fees under G.S. 20-309 for any deployed military personnel whose motor vehicle liability insurance lapsed during the period of deployment or within 90 days after the military member returned to North Carolina if the military member certifies to the Division of Motor Vehicles that the motor vehicle was not driven on the highway by anyone during the period in which the motor vehicle was uninsured and that the owner now has liability insurance on the motor vehicle.
- (3) Allow up to 90 days from the end of deployment for any deployed military personnel to renew a license as defined in G.S. 93B-1. During the period of deployment or active duty and until the expiration of the 90-day period provided for in this subdivision, expired licenses that are within the scope of this act remain valid, as if they had not expired.
- (4) Require that any renewal fee applicable to the renewal of a license under subdivision (3) of this section be prorated over the period covered by the license and reduced in proportion to the period of time that the licensee was deployed outside the State.

**SECTION 4.(a)** Property Taxes. – Notwithstanding G.S. 105-360 or G.S. 105-330.4, deployed military personnel are allowed 90 days after the end of their deployment to pay property taxes at par, for any property taxes that became due or delinquent during the term of the deployment. For these individuals, the taxes for the relevant tax year do not become delinquent until after the end of the 90-day period provided in this section, and an individual who pays the property taxes before the end of the 90-day period is not liable for interest on the taxes for the relevant tax year. If the individual does not pay the taxes before the end of the 90-day period, interest accrues on

the taxes according to the schedule provided in G.S. 105-360 or G.S. 105-330.4, as applicable, as though the taxes were unpaid as of the date the taxes would have become delinquent if not for this section.

**SECTION 4.(b)** Notwithstanding G.S. 105-307, deployed military personnel required to list property for taxation while deployed are allowed 90 days after the end of the deployment to list the property. For these individuals, the listing period for the relevant tax year is extended until the end of the 90-day period provided in this act, and an individual who lists the property before the end of the 90-day period is not subject to civil or criminal penalties for failure to list the property required to be listed during deployment.

**SECTION 5.(a)** Community College Refunds. – Upon request of the student, each community college shall:

- (1) Grant a full refund of curriculum tuition and fees to military reserve and national guard personnel called to active duty or active personnel who have received temporary or permanent reassignments as a result of military operations that make it impossible for them to complete their course requirements; and
- (2) Buy back textbooks through the colleges' bookstore operations to the extent possible. Colleges shall use distance-learning technologies and other educational methodologies to help these students, under the guidance of faculty and administrative staff, complete their course requirements.

**SECTION 5.(b)** Upon request of the student, each community college shall:

- (1) Grant a full refund of extension registration fees to military reserve and national guard personnel called to active duty or active personnel who have received temporary or permanent reassignments as a result of military operations that make it impossible for them to complete their course requirements; and
- (2) Buy back textbooks through the colleges' bookstore operations to the extent possible. Colleges shall use distance-learning technologies and other educational methodologies to help these students, under the guidance of faculty and administrative staff, complete their course requirements.

**SECTION 5.(c)** This section applies to the 2002-2003 and 2003-2004 academic years only.

**SECTION 6.(a)** UNC System Refunds. – This section is intended to assist the constituent institutions of The University of North Carolina in situations in which students request refunds of tuition or fees because of involuntary or voluntary service in the military or because of circumstances related to national emergencies.

Upon request of the student, all constituent institutions may issue a full refund of tuition and required fees to students who are involuntarily called to active duty in the military after a semester or term begins.

All constituent institutions should have a process for determining on a case-by-case basis whether to grant a full refund of tuition and required fees to students who volunteer for military service or who request to withdraw because of circumstances related to a national emergency.



Constituent institutions should determine under what circumstances students who withdraw because of military service or circumstances related to national emergencies should be given the option of receiving incompletes in their courses instead of receiving tuition and fee refunds.

Constituent institutions should determine whether or not to give full or pro rata refunds of housing, parking, and other optional fees to students to whom they give tuition and required fee refunds.

Constituent institutions that offer courses on military bases should defer to their contracts with the military in making determinations concerning withdrawal from courses due to changes in assignments of military personnel.

It is recommended that every campus review its policy on tuition refunds and make modifications necessary to cover the circumstances described in this section.

**SECTION 6.(b)** Legislative Tuition Grants. – Students who are receiving the North Carolina Legislative Tuition Grant who lose their full-time student status due to a call to active military duty or circumstances related to national emergencies shall not be required to repay the Legislative Tuition Grant for that semester. The North Carolina State Education Assistance Authority shall implement this subsection.

**SECTION 6.(c)** This section applies to the 2002-2003 and 2003-2004 academic years only.

**SECTION 7.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 26<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 4:45 p.m. on the 4<sup>th</sup> day of July, 2003.

**S.B. 714**

**Session Law 2003-301**

AN ACT TO ENSURE THAT PUBLIC SCHOOL EMPLOYEES DO NOT LOSE PAY WHILE THEY ARE ON MILITARY DUTY.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 115C-302.1 is amended by adding a new subsection to read:

"(g1) Payment During Military Duty. – The State Board of Education shall adopt rules relating to leaves of absence, without loss of pay or time, for periods of military training and for State or federal military duty or for special emergency management service. The rules shall apply to all public school employees, including, but not limited to, school teachers, administrators, guidance counselors, speech language pathologists, nurses, and custodians employed by local boards of education or by charter schools. The rules shall provide that (i) the State pays any salary differential to all public school employees in State-funded positions, (ii) the employing local board of education pays any pay differential to all public school employees in locally funded positions, (iii) the employing charter school pays any pay differential to all public school employees in the charter school, and (iv) the employing local board of education pays the local supplement."

**SECTION 2.** This act becomes effective on or after July 1, 2002.

In the General Assembly read three times and ratified this the 25<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 4:48 p.m. on the 4<sup>th</sup> day of July, 2003.

**H.B. 38****Session Law 2003-302**

AN ACT TO SHORTEN THE PROBATIONARY PERIOD FOR CAREER TEACHERS WHEN THEY CHANGE SCHOOL SYSTEMS OR RETURN TO TEACHING AFTER LEAVING THE PROFESSION.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 115C-325(c)(2) reads as rewritten:

"(2) Employment of a Career Teacher. – A teacher who has obtained career status in any North Carolina public school system need not serve another probationary period of more than ~~two years~~; one year. The board may grant career status immediately upon employing the teacher, or after the first ~~or second~~ year of employment. If a majority of the board votes against granting career status, the teacher shall not teach beyond the current term. If after ~~two consecutive years~~ one year of employment, the board fails to vote on the issue of granting career status:

- a. It shall not reemploy the teacher for a ~~third~~ second consecutive year;
- b. As of June 16, the teacher shall be entitled to one month's pay as compensation for the board's failure to vote upon the issue of granting career status; and
- c. The teacher shall be entitled to one additional month's pay for every 30 days beyond June 16 that the board fails to vote upon the issue of granting career status."

**SECTION 2.** This act is effective when it becomes law and applies to contracts of employment beginning with the 2004-2005 school year.

In the General Assembly read three times and ratified this the 25<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 4:49 p.m. on the 4<sup>th</sup> day of July, 2003.

**H.B. 408****Session Law 2003-303**

AN ACT TO MODIFY THE SECRET PEEPING STATUTE AND TO MAKE CONFORMING CHANGES.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 14-202 reads as rewritten:

"§ 14-202. **Secretly peeping into room occupied by ~~female person~~ another person.**

(a) Any person who shall peep secretly into any room occupied by a ~~female person~~ another person shall be guilty of a Class 1 misdemeanor.

(b) For purposes of this section:

- (1) The term "photographic image" means any photograph or photographic reproduction, still or moving, or any videotape, motion picture, or live television transmission, or any digital image of any individual.
- (2) The term "room" shall include, but is not limited to, a bedroom, a rest room, a bathroom, a shower, and a dressing room.
- (c) Unless covered by another provision of law providing greater punishment, any person who, while in possession of any device which may be used to create a photographic image, shall secretly peep into any room shall be guilty of a Class A1 misdemeanor.
- (d) Unless covered by another provision of law providing greater punishment, any person who, while secretly peeping into any room, uses any device to create a photographic image of another person in that room for the purpose of arousing or gratifying the sexual desire of any person shall be guilty of a Class I felony.
- (e) Any person who secretly or surreptitiously uses any device to create a photographic image of another person underneath or through the clothing being worn by that other person for the purpose of viewing the body of, or the undergarments worn by, that other person without their consent shall be guilty of a Class I felony.
- (f) Any person who, for the purpose of arousing or gratifying the sexual desire of any person, secretly or surreptitiously uses or installs in a room any device that can be used to create a photographic image with the intent to capture the image of another without their consent shall be guilty of a Class I felony.
- (g) Any person who knowingly possesses a photographic image that the person knows, or has reason to believe, was obtained in violation of this section shall be guilty of a Class I felony.
- (h) Any person who disseminates or allows to be disseminated images that the person knows, or should have known, were obtained as a result of the violation of this section shall be guilty of a Class H felony if the dissemination is without the consent of the person in the photographic image.
- (i) A second or subsequent felony conviction under this section shall be punished as though convicted of an offense one class higher. A second or subsequent conviction for a Class 1 misdemeanor shall be punished as a Class A1 misdemeanor. A second or subsequent conviction for a Class A1 misdemeanor shall be punished as a Class I felony.
- (j) If the defendant is placed on probation as a result of violation of this section:
  - (1) For a first conviction under this section, the judge may impose a requirement that the defendant obtain a psychological evaluation and comply with any treatment recommended as a result of that evaluation.
  - (2) For a second or subsequent conviction under this section, the judge shall impose a requirement that the defendant obtain a psychological evaluation and comply with any treatment recommended as a result of that evaluation.
- (k) Any person whose image is captured or disseminated in violation of this section has a civil cause of action against any person who captured or disseminated the image or procured any other person to capture or disseminate the image and is entitled to recover from those persons actual damages, punitive damages, reasonable attorneys' fees and other litigation costs reasonably incurred.

(l) When a person violates subsection (d), (e), (f), (g), or (h) of this section, or is convicted of a second or subsequent violation of subsection (a) or (c) of this section, the sentencing court shall consider whether the person is a danger to the community and whether requiring the person to register as a sex offender pursuant to Article 27A of this Chapter would further the purposes of that Article as stated in G.S. 14-208.5. If the sentencing court rules that the person is a danger to the community and that the person shall register, then an order shall be entered requiring the person to register.

(m) The provisions of subsections (a), (c), (e), (g), (h), and (k) of this section do not apply to:

- (1) Law enforcement officers while discharging or attempting to discharge their official duties; or
- (2) Personnel of the Department of Correction or of a local confinement facility for security purposes or during investigation of alleged misconduct by a person in the custody of the Department or the local confinement facility.

(n) This section does not affect the legal activities of those who are licensed pursuant to Chapter 74C, Private Protective Services, or Chapter 74D, Alarm Systems, of the General Statutes, who are legally engaged in the discharge of their official duties within their respective professions, and who are not engaging in activities for an improper purpose as described in this section."

**SECTION 2.** G.S. 14-208.6(4) reads as rewritten:

"(4) 'Reportable conviction' means:

- a. A final conviction for an offense against a minor, a sexually violent offense, or an attempt to commit any of those offenses unless the conviction is for aiding and abetting. A final conviction for aiding and abetting is a reportable conviction only if the court sentencing the individual finds that the registration of that individual under this Article furthers the purposes of this Article as stated in G.S. 14-208.5.
- b. A final conviction in another state of an offense, which if committed in this State, is substantially similar to an offense against a minor or a sexually violent offense as defined by this section.
- c. A final conviction in a federal jurisdiction (including a court martial) of an offense, which is substantially similar to an offense against a minor or a sexually violent offense as defined by this section.
- d. A final conviction for a violation of G.S. 14-202(d), (e), (f), (g), or (h), or a second or subsequent conviction for a violation of G.S. 14-202(a) or (c), only if the court sentencing the individual issues an order pursuant to G.S. 14-202(l) requiring the individual to register."

**SECTION 3.** This act becomes effective December 1, 2003, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 24<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 4:50 p.m. on the 4<sup>th</sup> day of July, 2003.

## S.B. 421

## Session Law 2003-304

AN ACT TO CLARIFY AND MAKE TECHNICAL CORRECTIONS TO THE CHILD WELFARE LAWS AND TO ENHANCE THE STATE'S ABILITY TO PROTECT CHILDREN.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 7B-407 reads as rewritten:

"§ **7B-407. Service of summons.**

The summons shall be ~~personally~~ served under G.S. 1A-1, Rule 4(j) upon the parent, guardian, custodian, or caretaker, not less than five days prior to the date of the scheduled hearing. The time for service may be waived in the discretion of the court.

If the parent, guardian, custodian, or caretaker entitled to receive a summons cannot be found by a diligent effort, the court may authorize service of the summons and petition ~~by mail or by publication~~ publication under G.S. 1A-1, Rule 4(j1). The cost of the service by publication shall be advanced by the petitioner and may be charged as court costs as the court may direct.

If the parent, guardian, custodian, or caretaker is ~~personally~~ served as herein provided and fails without reasonable cause to appear and to bring the juvenile before the court, the parent, guardian, custodian, or caretaker may be proceeded against as for contempt of court."

**SECTION 2.** G.S. 7B-1109(d) reads as rewritten:

"(d) The court may for good cause shown continue the hearing for ~~such time as is required for receiving~~ up to 90 days from the date of the initial petition in order to receive additional evidence, evidence including any reports or assessments which that the court has requested, to allow the parties to conduct expeditious discovery, or any to receive any other information needed in the best interests of the juvenile. Continuances that extend beyond 90 days after the initial petition shall be granted only in extraordinary circumstances when necessary for the proper administration of justice, and the court shall issue a written order stating the grounds for granting the continuance."

**SECTION 3.** G.S. 115C-378 reads as rewritten:

"§ **115C-378. Children required to attend.**

Every parent, guardian or other person in this State having charge or control of a child between the ages of seven and 16 years shall cause such child to attend school continuously for a period equal to the time which the public school to which the child is assigned shall be in session. Every parent, guardian, or other person in this State having charge or control of a child under age seven who is enrolled in a public school in grades kindergarten through two shall also cause such child to attend school continuously for a period equal to the time which the public school to which the child is assigned shall be in session unless the child has withdrawn from school. No person shall encourage, entice or counsel any such child to be unlawfully absent from school. The parent, guardian, or custodian of a child shall notify the school of the reason for each known absence of the child, in accordance with local school policy.

The principal, superintendent, or teacher who is in charge of such school shall have the right to excuse a child temporarily from attendance on account of sickness or other unavoidable cause ~~which that~~ does not constitute unlawful absence as defined by the State Board of Education. The term "school" as used herein is defined to embrace all

public schools and such nonpublic schools as have teachers and curricula that are approved by the State Board of Education.

All nonpublic schools receiving and instructing children of a compulsory school age shall be required to keep such records of attendance and render such reports of the attendance of such children and maintain such minimum curriculum standards as are required of public schools; and attendance upon such schools, if the school refuses or neglects to keep such records or to render such reports, shall not be accepted in lieu of attendance upon the public school of the district to which the child shall be assigned: Provided, that instruction in a nonpublic school shall not be regarded as meeting the requirements of the law unless the courses of instruction run concurrently with the term of the public school in the district and extend for at least as long a term.

The principal or his designee shall notify the parent, guardian, or custodian of his child's excessive absences after the child has accumulated three unexcused absences in a school year. After not more than six unexcused absences, the principal shall notify the parent, guardian, or custodian by mail that he may be in violation of the Compulsory Attendance Law and may be prosecuted if the absences cannot be justified under the established attendance policies of the State and local boards of education. Once the parents are notified, the school attendance counselor shall work with the child and his family to analyze the causes of the absences and determine steps, including adjustment of the school program or obtaining supplemental services, to eliminate the problem. The attendance counselor may request that a law-enforcement officer accompany him if he believes that a home visit is necessary.

After 10 accumulated unexcused absences in a school ~~year-year~~, the principal shall review any report or investigation prepared under G.S. 115C-381 and shall confer with the student and ~~his-the student's~~ parent, guardian, or ~~custodian-custodian~~, ~~if possible possible~~, to determine whether the parent, guardian, or custodian has received notification pursuant to this section and made a good faith effort to comply with the law. If the principal determines that the parent, guardian, or custodian has not, not made a good faith effort to comply with the law, he-the principal shall notify the district ~~attorney-attorney~~ and the director of social services of the county where the child resides. If he-the principal determines that the parent, guardian, or custodian has, has made a good faith effort to comply with the law, he-the principal may file a complaint with the juvenile court counselor pursuant to Chapter 7B of the General Statutes that the child is habitually absent from school without a valid excuse. Evidence that shows that the parents, guardian, or custodian were notified and that the child has accumulated 10 absences which cannot be justified under the established attendance policies of the local board shall establish a prima facie case that the child's parent, guardian, or custodian is responsible for the absences. Upon receiving notification by the principal, the director of social services shall determine whether to undertake an investigation under G.S. 7B-302."

**SECTION 4.** G.S. 131D-10.3A(b) reads as rewritten:

"(b) The Department shall ensure that all individuals who are required to be checked pursuant to subsection (a) of this section are checked ~~annually~~ upon relicensure for county and State criminal histories."

**SECTION 4.1.** G.S. 7B-302 is amended by adding a new subsection (h) to read:

"(h) The director or the director's representative may not enter a private residence for investigation purposes without at least one of the following:

- (1) The reasonable belief that a juvenile is in imminent danger of death or serious physical injury.
- (2) The permission of the parent or person responsible for the juvenile's care.
- (3) The accompaniment of a law enforcement officer who has legal authority to enter the residence.
- (4) An order from a court of competent jurisdiction."

**SECTION 4.2.** G.S. 131D-10.6A(b) reads as rewritten:

"(b) **(See Editor's Note)** The Division of Social Services shall establish minimum training requirements for child welfare services staff. The minimum training requirements established by the Division are as follows:

- (1) Child welfare services workers shall complete a minimum of 72 hours of preservice training before assuming direct client contact responsibilities. In completing this requirement, the Division of Social Services shall ensure that each child welfare worker receives training on family centered practices and State and federal law regarding the basic rights of individuals relevant to the provision of child welfare services, including the right to privacy, freedom from duress and coercion to induce cooperation, and the right to parent.
- (2) Child protective services workers shall complete a minimum of 18 hours of additional training that the Division of Social Services determines is necessary to adequately meet training needs.
- (3) Foster care and adoption workers shall complete a minimum of 39 hours of additional training that the Division of Social Services determines is necessary to adequately meet training needs.
- (4) Child welfare services supervisors shall complete a minimum of 72 hours of preservice training before assuming supervisory responsibilities and a minimum of 54 hours of additional training that the Division of Social Services determines is necessary to adequately meet training needs.
- (5) Child welfare services staff shall complete 24 hours of continuing education annually. In completing this requirement, the Division of Social Services shall provide each child welfare services staff member with annual update information on family centered practices and State and federal law regarding the basic rights of individuals relevant to the provision of child welfare services, including the right to privacy, freedom from duress and coercion to induce cooperation, and the right to parent.

The Division of Social Services may grant an exception in whole or in part to the requirement under subdivision (1) of this subsection to child welfare workers who satisfactorily complete or are enrolled in a masters or bachelors program after July 1, 1999, from a North Carolina social work program accredited pursuant to the Council on Social Work Education. The program's curricula must cover the specific preservice training requirements as established by the Division of Social Services.

The Division of Social Services shall ensure that training opportunities are available for county departments of social services and consolidated human service agencies to meet the training requirements of this subsection."

**SECTION 5.** Chapter 131D of the General Statutes is amended by adding a new section to read:

**"§ 131D-10.6C. Maintaining a register of applicants by the Division of Social Services.**

(a) The Division of Social Services shall keep a register of all family foster and therapeutic foster home applicants. The register shall contain the following information:

- (1) The name, age, and address of each applicant.
- (2) The date of the application.
- (3) The applicant's supervising agency.
- (4) Any mandated training completed by the applicant and the dates of training.
- (5) Whether the applicant was licensed and the date of the initial licensure.
- (6) The current licensing period.
- (7) Any adverse licensing actions.
- (8) Any other information deemed necessary by the Division of Social Services.

(b) The register shall be a public record under Chapter 132 of the General Statutes. Information not specified in subsection (a) of this section shall be considered confidential and not subject to disclosure."

**SECTION 6.** G.S. 143B-150.20(d) reads as rewritten:

"(d) The State Child Fatality Review Team shall have access to all medical records, hospital records, and records maintained by this State, any county, or any local agency as necessary to carry out the purposes of this subsection, including police investigative data, medical examiner investigative data, health records, mental health records, and social services records. The State Child Fatality Review Team may receive a copy of any reviewed materials necessary to the conduct of the fatality review. Any member of the State Child Fatality Review Team may share, only in an official meeting of the State Child Fatality Review Team, any information available to that member that the State Child Fatality Review Team needs to carry out its duties.

If the State Child Fatality Review Team does not receive information requested under this subsection within 30 days after making the request, the State Child Fatality Review Team may apply for an order compelling disclosure. The application shall state the factors supporting the need for an order compelling disclosure. The State Child Fatality Review Team shall file the application in the district court of the county where the investigation is being conducted, and the court shall have jurisdiction to issue any orders compelling disclosure. Actions brought under this section shall be scheduled for immediate hearing, and subsequent proceedings in these actions shall be given priority by the appellate courts."

**SECTION 7.** G.S. 153A-257 is amended by adding a new subsection to read:

"(d) If two or more county departments of social services disagree regarding the legal residence of a minor in a child abuse, neglect, or dependency case, any one of the county departments of social services may refer the issue to the Department of Health and Human Services, Division of Social Services, for resolution. The Director of the Division of Social Services or the Director's designee shall review the pertinent background facts of the case and shall determine which county department of social services shall be responsible for providing protective services and financial support for the minor in question."



**SECTION 7.1.** The Division of Social Services shall ensure that each currently employed child welfare worker receives training on family centered practices and State and federal law regarding the basic rights of individuals relevant to the provision of child welfare services, including the right to privacy, freedom from duress and coercion to induce cooperation, and the right to parent.

**SECTION 7.2.** The Division shall report to the Chairs of the Senate and House Appropriations Committees and the Chairs of the Senate Health and Human Services Appropriations Subcommittee and the House of Representatives Appropriations Subcommittee on Health and Human Services by April 1, 2004, regarding the additional training required in Sections 4.2 and 7.1 of this act.

**SECTION 8.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 25<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 4:51 p.m. on the 4<sup>th</sup> day of July, 2003.

**H.B. 994**

**Session Law 2003-305**

AN ACT ALLOWING THE STATE, COUNTIES, AND CITIES TO CONSTRUCT PRE-ENGINEERED STRUCTURES WITHOUT HAVING THE PLANS AND SPECIFICATIONS FOR THE STRUCTURES REVIEWED BY A REGISTERED ARCHITECT OR ENGINEER.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 133-1.1(c) reads as rewritten:

"(c) The following shall be excepted from the requirements of subsection (a) of this section:

- (1) Dwellings and outbuildings in connection therewith, such as barns and private garages.
- (2) Apartment buildings used exclusively as the residence of not more than two families.
- (3) Buildings used for agricultural purposes other than schools or assembly halls which are not within the limits of a city or an incorporated village.
- (4) Temporary buildings or sheds used exclusively for construction purposes, not exceeding 20 feet in any direction, and not used for living quarters.
- (5) Pre-engineered garages, sheds, and workshops up to 5,000 square feet used exclusively by city, county, public school, or State employees for purposes related to their employment. For pre-engineered garages, sheds, and workshops constructed pursuant to this subdivision, there shall be a minimum separation of these structures from other buildings or property lines of 30 feet."

**SECTION 2.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 26<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 4:51 p.m. on the 4<sup>th</sup> day of July, 2003.

## AN ACT TO ADD THREE ADVISORY MEMBERS TO THE STATE BOARD OF EDUCATION.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 115C-11 is amended by adding three new subsections to read:

"(a3) Superintendent Advisor. – The Governor shall appoint a superintendent of a local school administrative unit as an advisor to the State Board of Education. The superintendent advisor shall serve for a term of one year. The superintendent advisor shall participate in State Board deliberations and committee meetings in an advisory capacity only. The State Board may, in its discretion, exclude the superintendent advisor from executive sessions.

In the event that a superintendent advisor ceases to be a superintendent in a local school administrative unit, the position of superintendent advisor shall be deemed vacant. In the event that a vacancy occurs in the position for whatever reason, the Governor shall appoint a superintendent advisor for the remainder of the unexpired term. The superintendent advisor to the State Board shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

(a4) State Principal of the Year Advisor. – Each State Principal of the Year, as designated by the Department of Public Instruction, shall serve ex officio as an advisor to the State Board of Education. Each State Principal of the Year shall begin service as an advisory member to the State Board at the commencement of the principal's term as State Principal of the Year and shall serve for one year. The State Principal of the Year shall participate in State Board deliberations and committee meetings in an advisory capacity only. The State Board may, in its discretion, exclude the State Principal of the Year from executive sessions.

In the event a vacancy occurs in the State Principal of the Year's advisory position, the principal who was next runner-up to that State Principal of the Year shall serve as the advisory member to the State Board for the remainder of the unexpired term. The State Principal of the Year advisor to the State Board shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

(a5) Local Board of Education Advisor. – The current Raleigh Dingman Award winner shall serve as an advisor to the State Board of Education. The local board of education advisor shall serve for a term of one year. The local board of education advisor shall participate in State Board deliberations and committee meetings in an advisory capacity only. The State Board may, in its discretion, exclude the local board of education advisor from executive sessions.

In the event that the Raleigh Dingman Award winner ceases to be a local board of education member or notifies the State Board of Education that he or she is unable to fulfill his or her duties as a local board of education advisor member, the position of local board of education member shall be deemed vacant. In the event that a vacancy occurs in the position for whatever reason, the President of the North Carolina School Boards Association shall serve as the advisory member to the State Board for the remainder of the unexpired term. The local board of education advisor to the State

Board shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5."

**SECTION 2.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 26<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 4:52 p.m. on the 4<sup>th</sup> day of July, 2003.

**S.B. 775**

**Session Law 2003-307**

AN ACT TO CONDITIONALLY REQUIRE INSURERS TO PROVIDE INFORMATION REGARDING POLICY LIMITS PRIOR TO LITIGATION WHEN REQUESTED IN WRITING BY THE PERSONS WHO HAVE CLAIMS, OTHER THAN MEDICAL MALPRACTICE CLAIMS, SUBJECT TO NONFLEET PRIVATE PASSENGER AUTOMOBILE INSURANCE POLICIES AND TO GIVE THESE INSURERS THE OPTION OF INITIATING PRELITIGATION MEDIATION OF THE CLAIMS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Article 3 of Chapter 58 of the General Statutes is amended by adding a new section to read:

**"§ 58-3-33. Insurer conditionally required to provide information.**

(a) A person who claims to have been physically injured or to have incurred property damage where such injury or damage is subject to a policy of nonfleet private passenger automobile insurance may request by certified mail directed to the insurance adjuster or to the insurance company (Attention Corporate Secretary) at its last known principal place of business that the insurance company provide information regarding the policy's limits of coverage under the applicable policy. Upon receipt of such a request, which shall include the policyholder's name, and, if available, policy number, the insurance company shall notify that person within 15 business days, on a form developed by the Department, that the insurer is required to provide this information prior to litigation only if the person seeking the information satisfies all of the following conditions:

- (1) The person seeking the information submits to the insurer the person's written consent to the person's physicians to release to the insurer the person's medical records for the three years prior to the date on which the claim arose.
- (2) The person seeking the information submits to the insurer the person's written consent to participate in mediation of the person's claim under G.S. 7A-38.3A.
- (3) The person seeking the information submits to the insurer a copy of the accident report required under G.S. 20-166.1 and a description of the events at issue with sufficient particularity to permit the insurer to make an initial determination of the potential liability of its insured.

(b) Within 30 days of receiving the person's written documents required under subsection (a) of this section, the insurer shall provide the policy limits.

(c) Disclosure of the policy limits under this section shall not constitute an admission that the alleged injury or damage is subject to the policy.

(d) This section does not apply to claims seeking recovery for medical malpractice or claims for which an insurer intends to deny coverage under any policy of insurance."

**SECTION 2.** Article 5 of Chapter 7A of the General Statutes is amended by adding a new section to read:

**"§ 7A-38.3A. Prelitigation mediation of insurance claims.**

(a) Initiation of Mediation. – Prelitigation mediation of an insurance claim may be initiated by an insurer that has provided the policy limits in accordance with G.S. 58-3-33 by filing a request for mediation with the clerk of superior court in a county in which the action may be brought. The insurer also shall mail a copy of the request by certified mail, return receipt requested, to the person who requested the information under G.S. 58-3-33.

(b) Costs of Mediation. – Costs of mediation, including the mediator's fees, shall be borne by the insurer and claimant equally. When an attorney represents a party to the mediation, that party shall pay his or her attorneys' fees.

(c) Mediation Procedure. – Except as otherwise expressly provided in this section, mediation under this section shall be conducted in accordance with the provisions for mediated settlement of civil cases in G.S. 7A-38.1 and G.S. 7A-38.2, and rules and standards adopted pursuant to those sections. The Supreme Court may adopt additional rules and standards to implement this section, including an exemption from the provisions of G.S. 7A-38.1 for cases in which mediation was attempted under this section.

(d) Certification That Mediation Concluded. – Upon the conclusion of mediation, the mediator shall prepare a certification stating the date on which the mediation was concluded and the general results of the mediation, including, as applicable, that an agreement was reached, that mediation was attempted but an agreement was not reached, or that one or more parties, to be specified in the certification, failed or refused without good cause to attend one or more mediation meetings or otherwise participate in the mediation. The mediator shall file the original of the certification with the clerk and provide a copy to each party. Each party to the mediation has satisfied the requirements of this section upon the filing of the certification, except any party specified in the certification as having failed or refused to attend one or more mediation meetings or otherwise participate. The sanctions in G.S. 7A-38.1(g) do not apply to prelitigation mediation conducted under this section.

(e) Time Periods Tolled. – Time periods relating to the filing of a claim or the taking of other action with respect to an insurance claim, including any applicable statutes of limitations, shall be tolled upon the filing of a request for mediation under this section, until 30 days after the date on which the mediation is concluded as set forth in the mediator's certification or, if the mediator fails to set forth such date, until 30 days after the filing of the certification under subsection (d) of this section.

(f) Medical Malpractice Claims Excluded. – This section does not apply to claims seeking recovery for medical malpractice."

**SECTION 3.** This act becomes effective January 1, 2004, and applies to claims regarding physical injury or property damage that arise on or after that date.

In the General Assembly read three times and ratified this the 25<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 4:55 p.m. on the 4<sup>th</sup> day of July, 2003.

## H.B. 1129

## Session Law 2003-308

AN ACT TO REVISE SERVICE REQUIREMENTS TO CONFORM WITH RULE 4 OF THE NORTH CAROLINA RULES OF CIVIL PROCEDURE, AND TO MAKE TECHNICAL AND OTHER CHANGES TO THE WAGE AND HOUR ACT AND THE PRIVATE PERSONNEL SERVICES ACT.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 95-25.23(a) reads as rewritten:

"(a) Any employer who violates the provisions of G.S. 95-25.5 (Youth Employment) or any regulation issued thereunder, shall be subject to a civil penalty not to exceed two hundred fifty dollars (\$250.00) for each violation. In determining the amount of such penalty, the appropriateness of such penalty to the size of the business of the person charged and the gravity of the violation shall be considered. The determination by the Commissioner shall be final, unless within 15 days after receipt of notice thereof by certified mail or by a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) with delivery receipt, the person charged with the violation takes exception to the determination, in which event final determination of the penalty shall be made in an administrative proceeding pursuant to Article 3 of Chapter 150B and in a judicial proceeding pursuant to Article 4 of Chapter 150B."

**SECTION 2.** G.S. 95-25.23A(a) reads as rewritten:

"(a) Any employer who violates the provisions of G.S. 95-25.15(b) or any regulation issued pursuant to G.S. 95-25.15(b), shall be subject to a civil penalty of up to two hundred fifty dollars (\$250.00) per employee with the maximum not to exceed one thousand dollars (\$1,000) per investigation by the Commissioner or his authorized representative. In determining the amount of the penalty, the Commissioner shall consider:

- (1) The appropriateness of the penalty for the size of the business of the employer charged; and
- (2) The gravity of the violation.

The determination by the Commissioner shall be final, unless within 15 days after receipt of notice thereof by certified ~~mail~~, mail or by a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) with delivery receipt, the person charged with the violation takes exception to the determination, in which event final determination of the penalty shall be made in an administrative proceeding pursuant to Article 3 of Chapter 150B and in a judicial proceeding pursuant to Article 4 of Chapter 150B."

**SECTION 3.** G.S. 95-110.10(e) reads as rewritten:

"(e) The determination of the amount of the penalty by the Commissioner shall be final, unless within 15 days after receipt of notice thereof by certified mail or by a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) with delivery receipt, the person charged with the violation takes exception to the determination in which event the final determination of the penalty shall be made in an administrative proceeding and in a judicial proceeding pursuant to Chapter 150B of the General Statutes, the Administrative Procedure Act."

**SECTION 4.** G.S. 95-111.13(g) reads as rewritten:

"(g) The determination of the amount of the penalty by the Commissioner shall be final, unless within 15 days after receipt of notice thereof by certified ~~mail~~, mail or by a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) with delivery

receipt, the person charged with the violation takes exception to the determination, in which event final determination of the penalty shall be made in an administrative proceeding and in a judicial proceeding pursuant to Chapter 150B of the General Statutes, the Administrative Procedure Act."

**SECTION 5.** G.S. 95-123 reads as rewritten:

**"§ 95-123. Orders.**

If, after investigation, the Commissioner finds that a violation of any of his rules and regulations exists, or that there is a condition in passenger tramway construction, operation, or maintenance which endangers the safety of the public, the Commissioner shall forthwith issue his written order setting forth his findings, the corrective action to be taken, and fixing a reasonable time for compliance therewith. The order shall be sent to the affected operator by certified mail or by a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) with delivery receipt and shall become final unless the operator contests the order by filing a petition for a contested case under G.S. 150B-23 within 20 days after receiving the order. The Commissioner shall have the power to institute injunctive proceedings in any court of competent jurisdiction of the district court district as defined in G.S. 7A-133 or superior court district or set of districts as defined in G.S. 7A-41.1, as the case may be, in which the passenger tramway is located for the purpose of restraining the operation of said tramway or for compelling compliance with any lawful order of the Commissioner. Judicial review of a final decision under this section may be obtained under Article 4 of Chapter 150B of the General Statutes."

**SECTION 6.** G.S. 95-137(b) reads as rewritten:

**"(b) Procedure for Enforcement. –**

- (1) If, after an inspection or investigation, the Director issues a citation under any provisions of this Article, the Director shall, within a reasonable time after the termination of such inspection or investigation, notify the employer by certified ~~mail~~ mail, by a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) with delivery receipt, or via hand delivery of any penalty, if any, the Director has recommended to the Commissioner to be proposed under the provisions of this Article and that the employer has 15 working days within which to notify the Director that the employer wishes to:

- a. Contest the citation or proposed assessment of penalty; or
- b. Request an informal conference.

Following an informal conference, unless the employer and Department have entered into a settlement agreement, the Director shall send the employer an amended citation or notice of no change. The employer has 15 working days from the receipt of the amended citation or notice of no change to notify the Director that the employer wishes to contest the citation or proposed assessment of penalty, whether or not amended. If, within 15 working days from the receipt of the notice issued by the Director, the employer fails to notify the Director that the employer requires an informal conference to be held or intends to contest the citation or proposed assessment of penalty,

- and no notice is filed by any employee or representative of employees under the provisions of this Article within such time, the citation and the assessment as proposed to the Commissioner shall be deemed final and not subject to review by any court.
- (2) If the Director has reason to believe that an employer has failed to correct a violation for which a citation has been issued within the period permitted for its correction (which period shall not begin to run until the entry of a final order by the Board in case of any review proceedings under this Article initiated by the employer in good faith and not solely for a delay or avoidance of penalties), the Director shall notify the employer by certified ~~mail~~mail, by a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) with delivery receipt, or via hand delivery of such failure and of the penalty proposed to be assessed under this Article by reason of such failure and that the employer has 15 working days within which to notify the Director that the employer wishes to contest the Director's notification of the proposed assessment of penalty. If, within 15 working days from the receipt of notification issued by the Director, an employer fails to notify the Director that the employer intends to contest the notification or proposed recommendation of penalty, the notification and the proposed assessment made by the Director shall be final and not subject to review by any court.
  - (3) No citation may be issued under this section after the expiration of six months following the occurrence of any violation.
  - (4) If an employer notifies the Director that the employer intends to contest a citation issued under the provisions of this Article or notification issued under the provisions of this Article, or if, within 15 working days of the receipt of a citation under this Article, any employee or representative thereof files a notice with the Director alleging that the period of time fixed in the citation for the abatement of the violation is unreasonable, the Director shall immediately advise the Board of such notification, and the Board shall afford an opportunity for a hearing. The Board shall thereafter issue an order, based on findings of fact, affirming, modifying, or vacating the Director's citation or the proposed penalty fixed by the Commissioner, or directing other appropriate relief, and such order shall become final 30 days after its issuance. Upon showing by an employer of a good faith effort to comply with the abatement requirements of a citation, and that an abatement has not been completed because of factors beyond the employer's reasonable control, the Director, after an opportunity for a hearing as provided in this Article, shall issue an order affirming or modifying the abatement requirements in such citation. The rules of procedure prescribed by the chairman of the Board shall provide affected employees or representatives of affected employees an opportunity to participate as parties to hearings under this section.
  - (5) Repealed by Session Laws 1993, c. 300, s. 2.

- (6) Each local unit of government shall report each violation for which it is issued a citation to its local governing board at its next public meeting and to its workers compensation insurance carrier or to the risk pool of which it is a member pursuant to Article 23 of Chapter 58 of the General Statutes."

**SECTION 7.** G.S. 95-234(a) reads as rewritten:

"§ 95-234. **Violation of controlled substance examination regulations; civil penalty.**

(a) Any examiner who violates the provisions of this Article shall be subject to a civil penalty of up to two hundred fifty dollars (\$250.00) per affected examinee with the maximum not to exceed one thousand dollars (\$1,000) per investigation by the Commissioner of Labor or his authorized representative. In determining the amount of the penalty, the Commissioner shall consider:

- (1) The appropriateness of the penalty for the size of the business of the employer charged; and
- (2) The gravity of the violation.

The determination by the Commissioner shall be final, unless within 15 days after receipt of notice thereof by certified ~~mail~~, ~~mail~~ or by a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) with delivery receipt, the person charged with the violation takes exception to the determination, in which event final determination of the penalty shall be made in an administrative proceeding pursuant to Article 3 of Chapter 150B and which final determination shall be subject to judicial review in a judicial proceeding pursuant to Article 4 of Chapter 150B."

**SECTION 8.** G.S. 95-25.3A is repealed.

**SECTION 9.** G.S. 95-47.2 reads as rewritten:

"§ 95-47.2. **Licensing procedures.**

(a) No person shall open, keep, maintain, own, operate or carry on a private personnel service unless the person has first procured a license therefor as provided in this Article.

(b) An application for license shall be made to the Commissioner. If the private personnel service is owned by an individual, the application shall be made by that individual; if the service is owned by a partnership, the application shall be made by all partners; if the service is owned by a corporation, the application shall be made by all stockholders who own at least twenty percent (20%) of the issued and outstanding voting stock of the corporation, or if the service is owned by an association, society, or corporation in which no one individual owns at least twenty percent (20%) of the issued and outstanding voting stock, the application shall be made by the president, vice-president, secretary and treasurer of the owner, by whatever title designated. The application shall state the name and address of the individual who is responsible for the direction and operation of the placement activities of the private personnel service whether that individual be one of the applicants or another person; whether or not that individual has ever been employed in a private personnel service; the name and address of each of the license applicant's prior employers during the five years immediately preceding the license application; and such other information relating to the good moral character of that individual as the Commissioner may require. No change in such persons shall take place without prior notification to the Commissioner.

(c) Each application for license shall be in writing and in the form prescribed by the Commissioner, and shall state truthfully the name under which the business is to be conducted; the street and number of the building or place where the business is to be conducted.



- (d) Upon the receipt of an application for a license the Commissioner:
- (1) Shall publish a notice of the pending application in a newspaper of general circulation in the area of the proposed location of the employment agency and may publish the notice in a newspaper of general circulation in each area in which the applicant (or if a corporation, the president and majority shareholder) has resided during the five years preceding the time of the application. The applicant shall incur the cost associated with the publication of this legal advertisement. The notice shall include a statement informing individuals of their right to protest the issuance of a license by filing within 10 days written comments with the Commissioner. The protest shall be in writing and signed by the person filing the protest or by his authorized agent or attorney, and shall state reasons why the license should not be granted. Upon the filing of a protest, the Commissioner, if he determines the protest to be of such a nature that a hearing should be conducted and that the protest is for a cause on which denial of a license may properly be based, shall appoint a time and place for a hearing on the application and shall give at least seven days' notice of that time and place to the license applicant and to the person filing the protest. The hearing shall be conducted in accordance with the provisions of the rules of the Administrative Procedure ~~Act~~; Act.
  - (2) Shall investigate the character, criminal record and business integrity of each applicant for agency license and shall investigate the criminal records of all persons listed as agency owners, officers, directors or managers. The applicant and all agency owners, officers, directors and managers shall assist the department in obtaining necessary information by authorizing the release of all relevant ~~information~~; information. The applicant shall incur the cost associated with this background investigation.
  - (2a) The Department of Justice may provide a criminal record check to the Commissioner for a person or agency who has applied for a license through the Commissioner. The Commissioner shall provide to the Department of Justice, along with the request, the fingerprints of all applicants, any additional information required by the Department of Justice, and a form signed by the applicants consenting to the check of the criminal record and to the use of the fingerprints and other identifying information required by the State or national repositories. The applicants' fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of the fingerprints to the Federal Bureau of Investigation for a national criminal history check. The Commissioner shall keep all information pursuant to this subdivision privileged, in accordance with applicable State law and federal guidelines, and the information shall be confidential and shall not be a public record under Chapter 132 of the General Statutes.

The Department of Justice may charge each applicant a fee for conducting the checks of criminal history records authorized by this subdivision.

- (3) Upon completion of the investigation, or ~~30 days~~ 60 days after the application was received, whichever is later, but in no case more than ~~45 days~~ 75 days after the application was received, shall determine whether or not a license should be issued. The license shall be denied for any of the following reasons:
- a. If the applicant for agency license, or the president or majority shareholder of a corporate applicant, omits or falsifies any material information asked for in the application and required by the ~~Commissioner~~ Commissioner.
  - b. If any owner, officer, director or manager of the employment agency:
    1. Has been convicted in any state of the criminal offense of embezzlement, obtaining money under false pretenses, forgery, conspiracy to defraud or any similar offense involving fraud or moral turpitude;
    2. Was an owner, officer, director or manager of an employment agency or other business whose license was revoked or that was otherwise caused to cease operation by action of any State or federal agency or court because of violations of law or regulation relating to deceptive or unfair practices in the conduct of business;
    3. As an owner or manager of an employment agency or other business or as an employment counselor was found by any State or federal agency or court to have violated any law or regulation relating to deceptive or unfair practices in the conduct of business; or
    4. In any other demonstrable way engaged in deceptive or unfair practices in the conduct of ~~business~~ business.
  - c. If the employment agency will be operated on the same premises as a loan agency (as defined in G.S. 105-88) or collection agency (as defined in G.S. 58-70-15).

(e) If it appears upon the hearing or from the inspection, examination or investigation made by the Commissioner that the owners, partners, corporation officers or the agency manager are not persons of good moral character or that the license applicant has not complied with the provisions of this Article, the application shall be denied and a license shall not be granted. The Commissioner shall find facts to substantiate his denial of the issuance of a license. Each application shall be granted or refused within ~~30 days~~ 60 days from the date of its filing, or if a hearing is held, within ~~45 days~~ 75 days. Any license heretofore or hereafter issued shall expire 12 months from the date of its issuance, and shall be renewed as hereinafter provided unless sooner revoked by the Commissioner.

(f) No license shall be granted to a person to operate as a private personnel service where the name of the business is similar or identical to that of any existing licensed business (except where a franchiser has licensed two or more persons to use the same name within the State) or directly or indirectly expresses or connotes any limitation, specification or discrimination contrary to current State or federal laws against discrimination in employment.

(g) Every license shall contain the name of the person licensed and shall designate the city in which the license is issued, the name of the manager and date of the license. The license shall be displayed in a conspicuous place in the area where job applicants are received by the agency.

(h) A license granted as provided in this Article shall not be valid for any person other than the person to whom it is issued or for any place other than that designated in the license and shall not be assigned or transferred without the consent of the Commissioner, whose consent must be based on the standards contained in this Article. Applications for consent to assign or transfer shall be made in the same manner as an application for a license, and all the provisions of this Article shall apply to applications for consent. The location of a private personnel service shall not be changed without notice to the Commissioner, and any change of location shall be endorsed upon the license. A person who has obtained a license in accordance with the provisions of this Article may apply for additional licenses to conduct additional private personnel services in accordance with the provisions of this Article. The manner of application, and the conditions and terms applicable to the issuance of the additional licenses shall be the same as for an original license. The same agency manager may be designated in all such licenses.

(i) Temporary license. – If ownership of a licensed private personnel service is transferred, the department shall issue a temporary license to any new owner or successor if it appears to the department that issuance of such a license would serve the public interest. A temporary license shall be effective for a period of 90 days and shall not be renewed.

(j) Each licensee shall, before the license is issued or renewed, deposit with the department a bond payable to the State of North Carolina and executed by a surety company duly authorized to transact business in the State of North Carolina in the amount of ten thousand dollars (\$10,000) and upon condition that the private personnel service will pay to applicants all refunds due under this Article and regulations adopted hereunder if the private personnel service terminates its business."

**SECTION 10.** G.S. 95-47.7 is repealed.

**SECTION 11.** G.S. 95-47.8 is repealed.

**SECTION 12.** G.S. 95-47.9 reads as rewritten:

**"§ 95-47.9. Enforcement of Article; rules; hearing; penalty; criminal penalties.**

(a) This Article shall be enforced by the Commissioner. The Commissioner or any duly authorized agent, deputies or assistants designated by the Commissioner, may upon receipt of a complaint that a private personnel service has violated a specific section of this Article, inspect those records relevant to the complaint which this Article requires the private personnel service to retain. The Commissioner may also subpoena those records and witnesses and may conduct investigations of any employer or other person where the Commissioner has reasonable grounds for believing that the employer or person has conspired or is conspiring with a private personnel service to violate this Article.

(b) ~~The Commissioner may make reasonable administrative rules within the standards set in this Article. Before such rules are presented to the Advisory Council, the Commissioner shall conduct a public hearing, giving due notice thereof to all interested parties and shall afford the opportunity for written comments. No rule shall become effective until 60 days after the public hearing and Advisory Council approval, and copies thereof shall be furnished to all private personnel services at least 30 days~~

~~prior to the effective date of the rule. The Commissioner shall adopt rules necessary to carry out and administer the provisions of this Article.~~

(c) ~~Complaints against any licensed person shall be made in writing to the Commissioner, or be sent in affidavit form without a personal appearance of the complainant. Commissioner.~~

(1) ~~If the complaint alleges a violation of this Article, the Commissioner shall cause an investigation to be made. If, as a result of the investigation, the Commissioner has reason to believe that a material violation of this Article has been committed by a private personnel service, the Commissioner may hold a hearing. Reasonable notice thereof, not less than 10 days, shall be given in writing to the licensed person involved by serving upon him either personally, by registered or certified mail, or by leaving the same with the manager, a copy of the complaint. A hearing shall be held before the Commissioner with reasonable promptness but in no event later than 30 calendar days from the date of the filing of the complaint. The Commissioner, when investigating any matters pertaining to the granting, issuing, transferring, renewing, revoking, suspending or canceling of any license may take such testimony as he deems necessary on which to base official action. When taking such testimony he may subpoena witnesses and also direct the production before him of necessary and material books and papers. A daily calendar of all hearings shall be kept by the Commissioner and shall be posted in a conspicuous place in his public office for at least one day before the date of the hearings. The Commissioner shall render his decision within eight calendar days from the date of the completion of the hearing. The Commissioner shall keep a record of all such complaints and hearings. may, after compliance with Chapter 150B of the General Statutes, deny, suspend, or revoke a license issued under this Article if it is determined that the licensee or any employee of the licensee is guilty of violating the provisions of this Article. In addition, the Commissioner may issue warnings or levy a fine against the private personnel service that shall not exceed two hundred fifty dollars (\$250.00).~~

(2) ~~The denial, revocation, or suspension of a license or the issuance of a warning or fine by the Commissioner shall be in writing, shall be signed by the Commissioner or the Commissioner's designee, and shall state the grounds upon which the decision is based. The aggrieved person shall have the right to appeal from the decision as provided by Chapter 150B of the General Statutes.~~

(d) ~~If at the hearing conducted pursuant to subsection (c) of this section, it has been shown that the private personnel service or any employee of that personnel service is guilty of violating the provisions of this Article, the Commissioner may issue warnings, or levy a fine against the personnel service which shall not exceed two hundred and fifty dollars (\$250.00), and, for repeated willful violations, may suspend or revoke the license of the personnel service. Whenever the Commissioner suspends or revokes the license of any private personnel service, or levies a fine against a service, the determination is subject to judicial review in proceedings brought pursuant to the Administrative Procedure Act. Whenever a license is revoked, revoked pursuant to subsection (c) of this section, another license shall not be issued to the same person~~

within three years from the date of the revocation. ~~The Commissioner, Deputy Commissioner, or Director, Private Personnel Service Division may conduct hearings and act upon applications for licenses, and may revoke or suspend such licenses, or levy fines.~~

(e) Any person who operates as a private personnel service without first obtaining the appropriate license (i) shall be guilty of a Class 1 misdemeanor; and (ii) be subject to a civil penalty of not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00) for each day the private personnel service operates without a license, the penalty not to exceed a total of two thousand dollars (\$2,000). Actions to recover civil penalties shall be initiated by the Attorney General. The clear proceeds of civil penalties provided for in this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

**SECTION 13.** This act becomes effective July 1, 2003.

In the General Assembly read three times and ratified this the 27<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 4:57 p.m. on the 4<sup>th</sup> day of July, 2003.

**S.B. 1011**

**Session Law 2003-309**

AN ACT TO ALLOW A LIENHOLDER TO REQUEST AN ACCOUNTING OF DISBURSEMENTS OF SUMS RECOVERED FOR PERSONAL INJURY WITH RESPECT TO LIENS IN FAVOR OF PROVIDERS OF HEALTH-RELATED GOODS AND SERVICES.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Article 9 of Chapter 44 of the General Statutes is amended by adding a new section to read:

**"§ 44-50.1. Accounting of disbursements; attorney's fees to enforce lien rights.**

(a) Notwithstanding any confidentiality agreement entered into between the injured person and the payor of proceeds as settlement of compensation for injuries, upon the lienholder's written request and the lienholder's written agreement to be bound by any confidentiality agreements regarding the contents of the accounting, any person distributing funds to a lienholder under this Article in an amount less than the amount claimed by that lienholder shall provide to that lienholder a certification with sufficient information to demonstrate that the distribution was pro rata and consistent with this Article. If the person distributing settlement or judgment proceeds is an attorney, the accounting required by this section is not a breach of the attorney-client privilege.

(b) The certification under subsection (a) of this section shall include a statement of all of the following:

- (1) The total amount of the settlement.
- (2) The total distribution to lienholders, the amount of each lien claimed, and the percentage of each lien paid.
- (3) The total attorney's fees.

(c) Nothing in this Article shall be construed to require any person to act contrary to the requirements of the Health Insurance Portability and Accountability Act of 1996, P.L. 104-91, and regulations adopted pursuant to that Act."

**SECTION 2.** This act becomes effective October 1, 2003, and applies to any liens perfected on or after that date.

In the General Assembly read three times and ratified this the 26<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 4:58 p.m. on the 4<sup>th</sup> day of July, 2003.

**H.B. 1140****Session Law 2003-310**

AN ACT TO AUTHORIZE THE QUICK REMOVAL OF VEHICLES, CARGO, OR OTHER PERSONAL PROPERTY FROM CONTROLLED-ACCESS HIGHWAYS AND TO ALLOW DRIVERS TO REMOVE VEHICLES FROM TRAVEL LANES OF A HIGHWAY FOLLOWING MINOR ACCIDENTS, IF THE VEHICLES CAN BE SAFELY MOVED.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 20-161 reads as rewritten:

**"§ 20-161. Stopping on highway prohibited; warning signals; removal of vehicles from public highway.**

(a) No person shall park or leave standing any vehicle, whether attended or unattended, upon the paved or main-traveled portion of any highway or highway bridge outside municipal corporate limits unless the vehicle is disabled to such an extent that it is impossible to avoid stopping and temporarily leaving the vehicle upon the paved or main traveled portion of the highway or highway bridge.

(b) No person shall park or leave standing any vehicle upon the shoulder of a public highway outside municipal corporate limits unless the vehicle can be clearly seen by approaching drivers from a distance of 200 feet in both directions and does not obstruct the normal movement of traffic.

(c) The operator of any truck, truck tractor, trailer or semitrailer which is disabled upon any portion of the highway shall display warning devices of a type and in a manner as required under the rules and regulations of the United States Department of Transportation as adopted by the Division of Motor Vehicles. Such warning devices shall be displayed as long as the vehicle is disabled.

(d) The owner of any vehicle parked or left standing in violation of law shall be deemed to have appointed any investigating law-enforcement officer his agent:

- (1) For the purpose of removing the vehicle to the shoulder of the highway or to some other suitable place; and
- (2) For the purpose of arranging for the transportation and safe storage of any vehicle which is interfering with the regular flow of traffic or which otherwise constitutes a hazard, in which case the officer shall be deemed a legal possessor of the vehicle within the meaning of G.S. 44A-2(d).

(e) When any vehicle is parked or left standing upon the right-of-way of a public highway for a period of 48 hours or more, the owner shall be deemed to have appointed any investigating law-enforcement officer his agent for the purpose of arranging for the transportation and safe storage of such vehicle and such investigating law-enforcement officer shall be deemed a legal possessor of the motor vehicle within the meaning of that term as it appears in G.S. 44A-2(d).

(f) Any investigating law enforcement officer, with the concurrence of the Department of Transportation, may immediately remove or cause to be removed from a controlled-access highway any wrecked, abandoned, disabled, unattended, burned, or partially dismantled vehicle, cargo, or other personal property interfering with the regular flow of traffic or which otherwise constitutes a hazard. In the event of a motor vehicle crash involving serious personal injury or death, no removal shall occur until the investigating law enforcement officer determines that adequate information has been obtained for preparation of a crash report. No state or local law enforcement officer, Department of Transportation employee, or person or firm contracting or assisting in the removal or disposition of any such vehicle, cargo, or other personal property shall be held criminally or civilly liable for any damage or economic injury related to carrying out or enforcing the provisions of this section.

(g) The owner shall be liable for any costs incurred in the removal, storage, and subsequent disposition of a vehicle, cargo, or other personal property under the authority of this section."

**SECTION 2.** G.S. 20-166 is amended by adding a new subsection to read:

"(c2) If an accident or collision occurs on a main lane, ramp, shoulder, median, or adjacent area of a highway, each vehicle shall be moved as soon as possible out of the travel lane and onto the shoulder or to a designated accident investigation site to complete the requirements of this section and minimize interference with traffic if all of the following apply:

- (1) The accident or collision has not resulted in injury or death to any person or the drivers did not know or have reason to know of any injury or death.
- (2) Each vehicle can be normally and safely driven. For purposes of this subsection, a vehicle can be normally and safely driven if it does not require towing and can be operated under its own power and in its usual manner, without additional damage or hazard to the vehicle, other traffic, or the roadway."

**SECTION 3.** This act becomes effective October 1, 2003.

In the General Assembly read three times and ratified this the 30<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 11:25 a.m. on the 10<sup>th</sup> day of July, 2003.

## **H.B. 1023**

## **Session Law 2003-311**

AN ACT TO ALLOW INTERPOLICY STACKING OF UNINSURED MOTORIST COVERAGE, TO AMEND THE DEFINITION OF UNDERINSURED HIGHWAY VEHICLE, AND TO CLARIFY THE AMOUNT OF UNDERINSURED LIABILITY COVERAGE AVAILABLE WHEN MULTIPLE PARTIES ARE INJURED IN MOTOR VEHICLE ACCIDENTS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 20-279.21(b)(3) reads as rewritten:

- "(3) No policy of bodily injury liability insurance, covering liability arising out of the ownership, maintenance, or use of any motor vehicle, shall be delivered or issued for delivery in this State with respect to any motor vehicle registered or principally garaged in this State unless

coverage is provided therein or supplemental thereto, under provisions filed with and approved by the Commissioner of Insurance, for the protection of persons insured thereunder who are legally entitled to recover damages from owners or operators of uninsured motor vehicles and hit-and-run motor vehicles because of bodily injury, sickness or disease, including death, resulting therefrom, in an amount not to be less than the financial responsibility amounts for bodily injury liability as set forth in G.S. 20-279.5 nor greater than one million dollars (\$1,000,000), as selected by the policy owner. The provisions shall include coverage for the protection of persons insured thereunder who are legally entitled to recover damages from owners or operators of uninsured motor vehicles because of injury to or destruction of the property of such insured, with a limit in the aggregate for all insureds in any one accident of up to the limits of property damage liability in the owner's policy of liability insurance, and subject, for each insured, to an exclusion of the first one hundred dollars (\$100.00) of such damages. The provision shall further provide that a written statement by the liability insurer, whose name appears on the certification of financial responsibility made by the owner of any vehicle involved in an accident with the insured, that the other motor vehicle was not covered by insurance at the time of the accident with the insured shall operate as a prima facie presumption that the operator of the other motor vehicle was uninsured at the time of the accident with the insured for the purposes of recovery under this provision of the insured's liability insurance policy. The coverage required under this subdivision is not applicable where any insured named in the policy rejects the coverage. An insured named in the policy may select different coverage limits as provided in this subdivision. If the named insured in the policy does not reject uninsured motorist coverage and does not select different coverage limits, the amount of uninsured motorist coverage shall be equal to the highest limit of bodily injury and property damage liability coverage for any one vehicle in the policy. Once the option to reject the uninsured motorist coverage or to select different coverage limits is offered by the insurer, the insurer is not required to offer the option in any renewal, reinstatement, substitute, amended, altered, modified, transfer, or replacement policy unless the named insured makes a written request to exercise a different option. The selection or rejection of uninsured motorist coverage or the failure to select or reject by a named insured is valid and binding on all insureds and vehicles under the policy. Rejection of or selection of different coverage limits for uninsured motorist coverage for policies under the jurisdiction of the North Carolina Rate Bureau shall be made in writing by a named insured on a form promulgated by the Bureau and approved by the Commissioner of Insurance.

~~Where coverage is provided on more than one vehicle insured on the same policy or where the owner or the named insured has more than one policy with coverage under this subdivision, there shall not be permitted any combination of coverage within a policy or where more~~



~~than one policy may apply to determine the total amount of coverage available.~~

If a person who is legally entitled to recover damages from the owner or operator of an uninsured motor vehicle is an insured under the uninsured motorist coverage of a policy that insures more than one motor vehicle, that person shall not be permitted to combine the uninsured motorist limit applicable to any one motor vehicle with the uninsured motorist limit applicable to any other motor vehicle to determine the total amount of uninsured motorist coverage available to that person. If a person who is legally entitled to recover damages from the owner or operator of an uninsured motor vehicle is an insured under the uninsured motorist coverage of more than one policy, that person may combine the highest applicable uninsured motorist limit available under each policy to determine the total amount of uninsured motorist coverage available to that person. The previous sentence shall apply only to insurance on nonfleet private passenger motor vehicles as described in G.S. 58-40-10(1) and (2).

In addition to the above requirements relating to uninsured motorist insurance, every policy of bodily injury liability insurance covering liability arising out of the ownership, maintenance or use of any motor vehicle, which policy is delivered or issued for delivery in this State, shall be subject to the following provisions which need not be contained therein.

- a. A provision that the insurer shall be bound by a final judgment taken by the insured against an uninsured motorist if the insurer has been served with copy of summons, complaint or other process in the action against the uninsured motorist by registered or certified mail, return receipt requested, or in any manner provided by law; provided however, that the determination of whether a motorist is uninsured may be decided only by an action against the insurer alone. The insurer, upon being served as herein provided, shall be a party to the action between the insured and the uninsured motorist though not named in the caption of the pleadings and may defend the suit in the name of the uninsured motorist or in its own name. The insurer, upon being served with copy of summons, complaint or other pleading, shall have the time allowed by statute in which to answer, demur or otherwise plead (whether the pleading is verified or not) to the summons, complaint or other process served upon it. The consent of the insurer shall not be required for the initiation of suit by the insured against the uninsured motorist: Provided, however, no action shall be initiated by the insured until 60 days following the posting of notice to the insurer at the address shown on the policy or after personal delivery of the notice to the insurer or its agent setting forth the belief of the insured that the prospective defendant or defendants are uninsured motorists. No default judgment shall be entered when the insurer has timely filed an answer or other pleading as required by law. The failure to post notice to the

insurer 60 days in advance of the initiation of suit shall not be grounds for dismissal of the action, but shall automatically extend the time for the filing of an answer or other pleadings to 60 days after the time of service of the summons, complaint, or other process on the insurer.

- b. Where the insured, under the uninsured motorist coverage, claims that he has sustained bodily injury as the result of collision between motor vehicles and asserts that the identity of the operator or owner of a vehicle (other than a vehicle in which the insured is a passenger) cannot be ascertained, the insured may institute an action directly against the insurer: Provided, in that event, the insured, or someone in his behalf, shall report the accident within 24 hours or as soon thereafter as may be practicable, to a police officer, peace officer, other judicial officer, or to the Commissioner of Motor Vehicles. The insured shall also within a reasonable time give notice to the insurer of his injury, the extent thereof, and shall set forth in the notice the time, date and place of the injury. Thereafter, on forms to be mailed by the insurer within 15 days following receipt of the notice of the accident to the insurer, the insured shall furnish to insurer any further reasonable information concerning the accident and the injury that the insurer requests. If the forms are not furnished within 15 days, the insured is deemed to have complied with the requirements for furnishing information to the insurer. Suit may not be instituted against the insurer in less than 60 days from the posting of the first notice of the injury or accident to the insurer at the address shown on the policy or after personal delivery of the notice to the insurer or its agent. The failure to post notice to the insurer 60 days before the initiation of the suit shall not be grounds for dismissal of the action, but shall automatically extend the time for filing of an answer or other pleadings to 60 days after the time of service of the summons, complaint, or other process on the insurer.

Provided under this section the term "uninsured motor vehicle" shall include, but not be limited to, an insured motor vehicle where the liability insurer thereof is unable to make payment with respect to the legal liability within the limits specified therein because of insolvency.

An insurer's insolvency protection shall be applicable only to accidents occurring during a policy period in which its insured's uninsured motorist coverage is in effect where the liability insurer of the tort-feasor becomes insolvent within three years after such an accident. Nothing herein shall be construed to prevent any insurer from affording insolvency protection under terms and conditions more favorable to the insured than is provided herein.

In the event of payment to any person under the coverage required by this section and subject to the terms and conditions of coverage, the insurer making payment shall, to the extent thereof, be entitled to the proceeds of any settlement for judgment resulting from the exercise of any limits of recovery of that person against any person or

organization legally responsible for the bodily injury for which the payment is made, including the proceeds recoverable from the assets of the insolvent insurer.

For the purpose of this section, an "uninsured motor vehicle" shall be a motor vehicle as to which there is no bodily injury liability insurance and property damage liability insurance in at least the amounts specified in subsection (c) of G.S. 20-279.5, or there is that insurance but the insurance company writing the insurance denies coverage thereunder, or has become bankrupt, or there is no bond or deposit of money or securities as provided in G.S. 20-279.24 or 20-279.25 in lieu of the bodily injury and property damage liability insurance, or the owner of the motor vehicle has not qualified as a self-insurer under the provisions of G.S. 20-279.33, or a vehicle that is not subject to the provisions of the Motor Vehicle Safety and Financial Responsibility Act; but the term "uninsured motor vehicle" shall not include:

- a. A motor vehicle owned by the named insured;
- b. A motor vehicle that is owned or operated by a self-insurer within the meaning of any motor vehicle financial responsibility law, motor carrier law or any similar law;
- c. A motor vehicle that is owned by the United States of America, Canada, a state, or any agency of any of the foregoing (excluding, however, political subdivisions thereof);
- d. A land motor vehicle or trailer, if operated on rails or crawler-treads or while located for use as a residence or premises and not as a vehicle; or
- e. A farm-type tractor or equipment designed for use principally off public roads, except while actually upon public roads.

For purposes of this section "persons insured" means the named insured and, while resident of the same household, the spouse of any named insured and relatives of either, while in a motor vehicle or otherwise, and any person who uses with the consent, expressed or implied, of the named insured, the motor vehicle to which the policy applies and a guest in the motor vehicle to which the policy applies or the personal representative of any of the above or any other person or persons in lawful possession of the motor vehicle."

**SECTION 2.** G.S. 20-279.21(b)(4) reads as rewritten:

- "(4) Shall, in addition to the coverages set forth in subdivisions (2) and (3) of this subsection, provide underinsured motorist coverage, to be used only with a policy that is written at limits that exceed those prescribed by subdivision (2) of this section and that afford uninsured motorist coverage as provided by subdivision (3) of this subsection, in an amount not to be less than the financial responsibility amounts for bodily injury liability as set forth in G.S. 20-279.5 nor greater than one million dollars (\$1,000,000) as selected by the policy owner. An "uninsured motor vehicle," as described in subdivision (3) of this subsection, includes an "underinsured highway vehicle," which means a highway vehicle with respect to the ownership, maintenance, or use

of which, the sum of the limits of liability under all bodily injury liability bonds and insurance policies applicable at the time of the accident is less than the applicable limits of underinsured motorist coverage for the vehicle involved in the accident and insured under the owner's policy. For purposes of an underinsured motorist claim asserted by a person injured in an accident where more than one person is injured, a highway vehicle will also be an "underinsured highway vehicle" if the total amount actually paid to that person under all bodily injury liability bonds and insurance policies applicable at the time of the accident is less than the applicable limits of underinsured motorist coverage for the vehicle involved in the accident and insured under the owner's policy. Notwithstanding the immediately preceding sentence, a highway vehicle shall not be an 'underinsured motor vehicle' for purposes of an underinsured motorist claim under an owner's policy insuring that vehicle if the owner's policy insuring that vehicle provides underinsured motorist coverage with limits that are less than or equal to that policy's bodily injury liability limits. For the purposes of this subdivision, the term "highway vehicle" means a land motor vehicle or trailer other than (i) a farm-type tractor or other vehicle designed for use principally off public roads and while not upon public roads, (ii) a vehicle operated on rails or crawler-treads, or (iii) a vehicle while located for use as a residence or premises. The provisions of subdivision (3) of this subsection shall apply to the coverage required by this subdivision. Underinsured motorist coverage is deemed to apply when, by reason of payment of judgment or settlement, all liability bonds or insurance policies providing coverage for bodily injury caused by the ownership, maintenance, or use of the underinsured highway vehicle have been exhausted. Exhaustion of that liability coverage for the purpose of any single liability claim presented for underinsured motorist coverage is deemed to occur when either (a) the limits of liability per claim have been paid upon the claim, or (b) by reason of multiple claims, the aggregate per occurrence limit of liability has been paid. Underinsured motorist coverage is deemed to apply to the first dollar of an underinsured motorist coverage claim beyond amounts paid to the claimant under the exhausted liability policy.

In any event, the limit of underinsured motorist coverage applicable to any claim is determined to be the difference between the amount paid to the claimant under the exhausted liability policy or policies and the limit of underinsured motorist coverage applicable to the motor vehicle involved in the accident. Furthermore, if a claimant is an insured under the underinsured motorist coverage on separate or additional policies, the limit of underinsured motorist coverage applicable to the claimant is the difference between the amount paid to the claimant under the exhausted liability policy or policies and the total limits of the claimant's underinsured motorist coverages as determined by combining the highest limit available under each policy; provided that this sentence shall apply only to insurance on nonfleet private passenger motor vehicles as described in G.S. 58-40-15(9) and

(10). The underinsured motorist limits applicable to any one motor vehicle under a policy shall not be combined with or added to the limits applicable to any other motor vehicle under that policy.

An underinsured motorist insurer may at its option, upon a claim pursuant to underinsured motorist coverage, pay moneys without there having first been an exhaustion of the liability insurance policy covering the ownership, use, and maintenance of the underinsured highway vehicle. In the event of payment, the underinsured motorist insurer shall be either: (a) entitled to receive by assignment from the claimant any right or (b) subrogated to the claimant's right regarding any claim the claimant has or had against the owner, operator, or maintainer of the underinsured highway vehicle, provided that the amount of the insurer's right by subrogation or assignment shall not exceed payments made to the claimant by the insurer. No insurer shall exercise any right of subrogation or any right to approve settlement with the original owner, operator, or maintainer of the underinsured highway vehicle under a policy providing coverage against an underinsured motorist where the insurer has been provided with written notice before a settlement between its insured and the underinsured motorist and the insurer fails to advance a payment to the insured in an amount equal to the tentative settlement within 30 days following receipt of that notice. Further, the insurer shall have the right, at its election, to pursue its claim by assignment or subrogation in the name of the claimant, and the insurer shall not be denominated as a party in its own name except upon its own election. Assignment or subrogation as provided in this subdivision shall not, absent contrary agreement, operate to defeat the claimant's right to pursue recovery against the owner, operator, or maintainer of the underinsured highway vehicle for damages beyond those paid by the underinsured motorist insurer. The claimant and the underinsured motorist insurer may join their claims in a single suit without requiring that the insurer be named as a party. Any claimant who intends to pursue recovery against the owner, operator, or maintainer of the underinsured highway vehicle for moneys beyond those paid by the underinsured motorist insurer shall before doing so give notice to the insurer and give the insurer, at its expense, the opportunity to participate in the prosecution of the claim. Upon the entry of judgment in a suit upon any such claim in which the underinsured motorist insurer and claimant are joined, payment upon the judgment, unless otherwise agreed to, shall be applied pro rata to the claimant's claim beyond payment by the insurer of the owner, operator or maintainer of the underinsured highway vehicle and the claim of the underinsured motorist insurer.

A party injured by the operation of an underinsured highway vehicle who institutes a suit for the recovery of moneys for those injuries and in such an amount that, if recovered, would support a claim under underinsured motorist coverage shall give notice of the initiation of the suit to the underinsured motorist insurer as well as to the insurer providing primary liability coverage upon the underinsured highway vehicle. Upon receipt of notice, the underinsured motorist

insurer shall have the right to appear in defense of the claim without being named as a party therein, and without being named as a party may participate in the suit as fully as if it were a party. The underinsured motorist insurer may elect, but may not be compelled, to appear in the action in its own name and present therein a claim against other parties; provided that application is made to and approved by a presiding superior court judge, in any such suit, any insurer providing primary liability insurance on the underinsured highway vehicle may upon payment of all of its applicable limits of liability be released from further liability or obligation to participate in the defense of such proceeding. However, before approving any such application, the court shall be persuaded that the owner, operator, or maintainer of the underinsured highway vehicle against whom a claim has been made has been apprised of the nature of the proceeding and given his right to select counsel of his own choice to appear in the action on his separate behalf. If an underinsured motorist insurer, following the approval of the application, pays in settlement or partial or total satisfaction of judgment moneys to the claimant, the insurer shall be subrogated to or entitled to an assignment of the claimant's rights against the owner, operator, or maintainer of the underinsured highway vehicle and, provided that adequate notice of right of independent representation was given to the owner, operator, or maintainer, a finding of liability or the award of damages shall be res judicata between the underinsured motorist insurer and the owner, operator, or maintainer of underinsured highway vehicle.

As consideration for payment of policy limits by a liability insurer on behalf of the owner, operator, or maintainer of an underinsured motor vehicle, a party injured by an underinsured motor vehicle may execute a contractual covenant not to enforce against the owner, operator, or maintainer of the vehicle any judgment that exceeds the policy limits. A covenant not to enforce judgment shall not preclude the injured party from pursuing available underinsured motorist benefits, unless the terms of the covenant expressly provide otherwise, and shall not preclude an insurer providing underinsured motorist coverage from pursuing any right of subrogation.

The coverage required under this subdivision shall not be applicable where any insured named in the policy rejects the coverage. An insured named in the policy may select different coverage limits as provided in this subdivision. If the named insured does not reject underinsured motorist coverage and does not select different coverage limits, the amount of underinsured motorist coverage shall be equal to the highest limit of bodily injury liability coverage for any one vehicle in the policy. Once the option to reject underinsured motorist coverage or to select different coverage limits is offered by the insurer, the insurer is not required to offer the option in any renewal, reinstatement, substitute, amended, altered, modified, transfer, or replacement policy unless a named insured makes a written request to exercise a different option. The selection or rejection of underinsured

motorist coverage by a named insured or the failure to select or reject is valid and binding on all insureds and vehicles under the policy.

Rejection of or selection of different coverage limits for underinsured motorist coverage for policies under the jurisdiction of the North Carolina Rate Bureau shall be made in writing by the named insured on a form promulgated by the Bureau and approved by the Commissioner of Insurance."

**SECTION 3.** This act becomes effective January 1, 2004, and applies to accidents occurring on or after that date.

In the General Assembly read three times and ratified this the 30<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 11:26 a.m. on the 10<sup>th</sup> day of July, 2003.

## H.B. 1070

## Session Law 2003-312

### AN ACT TO INCREASE THE EXPENDITURE BENCHMARK FOR A SPECIAL RESPONSIBILITY CONSTITUENT INSTITUTION FOR CERTAIN PURCHASING CONTRACTS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 116-31.10 reads as rewritten:

"§ 116-31.10. **Powers of Board regarding certain purchasing contracts.**

(a) Notwithstanding G.S. 143-53.1 or G.S. 143-53(a)(2), the expenditure benchmark for a special responsibility constituent institution with regard to competitive bid procedures and the bid value benchmark shall be an amount not greater than ~~two hundred fifty thousand dollars (\$250,000)~~ five hundred thousand dollars (\$500,000). The Board shall set the benchmark for each institution from time to time. In setting an institution's benchmark in accordance with this section, the Board shall consider the institution's overall capabilities including staff resources, purchasing compliance reviews, and audit reports. The Board shall also consult with the Director of the Division of Purchase and Contract and the Director of the Budget prior to setting the benchmark.

(b) Each institution with an expenditure benchmark greater than two hundred fifty thousand dollars (\$250,000) shall comply with this subsection for any purchase greater than two hundred fifty thousand dollars (\$250,000) but not greater than five hundred thousand dollars (\$500,000). This institution shall submit to the Division of Purchase and Contract for that Division's approval or other action deemed necessary by the Division a copy of all offers received and the institution's recommendation of award or other action. Notice of the Division's decision shall be sent to that institution. The institution shall then proceed with the award of contract or other action recommended by the Division."

**SECTION 2.** This act becomes effective July 1, 2003.

In the General Assembly read three times and ratified this the 30<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 11:26 a.m. on the 10<sup>th</sup> day of July, 2003.

AN ACT TO AMEND THE CONFIDENTIALITY PROVISIONS OF CHAPTER 122C OF THE GENERAL STATUTES TO PERMIT IMPLEMENTATION OF MENTAL HEALTH SYSTEM REFORM.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 122C-3(14) reads as rewritten:

**"§ 122C-3. Definitions.**

As used in this Chapter, unless another meaning is specified or the context clearly requires otherwise, the following terms have the meanings specified:

- ...
- (14) "Facility" means any person at one location whose primary purpose is to provide services for the care, treatment, habilitation, or rehabilitation of the mentally ill, the developmentally disabled, or substance abusers, and includes:
- a. An "area facility", which is a facility that is operated by or under contract with the area ~~authority~~authority or county program. For the purposes of this subparagraph, a contract is a contract, memorandum of understanding, or other written agreement whereby the facility agrees to provide services to one or more clients of the area authority or county program. A facility that is providing services under contract with the area authority is an area facility for purposes of the contracted services only. Area facilities may also be licensable facilities in accordance with Article 2 of this Chapter. A State facility is not an area facility;
  - b. A "licensable facility", which is a facility that provides services for one or more minors or for two or more adults. When the services offered are provided to individuals who are mentally ill or developmentally disabled, these services shall be day services offered to the same individual for a period of three hours or more during a 24-hour period, or residential services provided for 24 consecutive hours or more. When the services offered are provided to individuals who are substance abusers, these services shall include all outpatient services, day services offered to the same individual for a period of three hours or more during a 24-hour period, or residential services provided for 24 consecutive hours or more. Facilities for individuals who are substance abusers include chemical dependency facilities;
  - c. A "private facility", which is a facility that is either a licensable facility or a special unit of a general hospital or a part of either in which the specific service provided is not covered under the terms of a contract with an area authority;
  - d. The psychiatric service of the University of North Carolina Hospitals at Chapel Hill;
  - e. A "residential facility", which is a 24-hour facility that is not a hospital, including a group home;



- f. A "State facility", which is a facility that is operated by the Secretary;
- g. A "24-hour facility", which is a facility that provides a structured living environment and services for a period of 24 consecutive hours or more and includes hospitals that are facilities under this Chapter; and
- h. A Veterans Administration facility or part thereof that provides services for the care, treatment, habilitation, or rehabilitation of the mentally ill, the developmentally disabled, or substance abusers."

**SECTION 2.** G.S. 122C-54(b) reads as rewritten:

**"§ 122C-54. Exceptions; abuse reports and court proceedings.**

...

(b) If an individual is a defendant in a criminal case and a mental examination of the defendant has been ordered by the ~~court~~, court as provided in G.S. 15A-1002, the facility ~~may~~ shall send the results or the report of the mental examination to the clerk of court, to the district attorney or prosecuting officer, and to the attorney of record for the defendant as provided in G.S. 15A-1002(d)."

**SECTION 3.** G.S. 122C-55 reads as rewritten:

**"§ 122C-55. Exceptions; care and treatment.**

(a) Any area or State facility or the psychiatric service of the University of North Carolina Hospitals at Chapel Hill may share confidential information regarding any client of that facility with any other area or State facility or the psychiatric service of the University of North Carolina Hospitals at Chapel Hill when necessary to coordinate appropriate and effective care, treatment or habilitation of ~~the client and when failure to share this information would be detrimental to the care, treatment or habilitation of the client.~~ the client. For the purposes of this subsection, coordinate means the provision, coordination, or management of mental health, developmental disabilities, and substance abuse services and related services by one or more facilities and includes the referral of a client from one facility to another. Under the circumstances described in this subsection, the consent of the client or legally responsible person is not required for this information to be furnished, and the information may be furnished despite objection by the client.

(a1) Any State or area facility or the psychiatric service of the University of North Carolina Hospitals at Chapel Hill may share confidential information regarding any client of that facility with the Secretary, and the Secretary may share confidential information regarding any client with an area or State facility or the psychiatric service of the University of North Carolina Hospitals at Chapel Hill when the responsible professional or the Secretary determines that disclosure is necessary to coordinate appropriate and effective care, treatment or habilitation of ~~the client and that failure to share this information would be detrimental to the care, treatment or habilitation of the client. Under the circumstances described in this subsection, the consent of the client or legally responsible person is not required for this information to be furnished, and the information may be furnished despite objection by the client.~~ client.

(a2) Any area or State facility or the psychiatric service of the University of North Carolina Hospitals at Chapel Hill may share confidential information regarding any client of that facility with any other area facility or State facility or the psychiatric

service of the University of North Carolina Hospitals at Chapel Hill when necessary to conduct payment activities relating to an individual served by the facility. Payment activities are activities undertaken by a facility to obtain or provide reimbursement for the provision of services and may include, but are not limited to, determinations of eligibility or coverage, coordination of benefits, determinations of cost-sharing amounts, claims management, claims processing, claims adjudication, claims appeals, billing and collection activities, medical necessity reviews, utilization management and review, precertification and preauthorization of services, concurrent and retrospective review of services, and appeals related to utilization management and review.

(a3) Whenever there is reason to believe that a client is eligible for benefits through a Department program, any State or area facility or the psychiatric service of the University of North Carolina Hospitals at Chapel Hill may share confidential information regarding any client of that facility with the Secretary, and the Secretary may share confidential information regarding any client with an area facility or State facility or the psychiatric services of the University of North Carolina Hospitals at Chapel Hill. Disclosure is limited to that information necessary to establish initial eligibility for benefits, determine continued eligibility over time, and obtain reimbursement for the costs of services provided to the client.

(a4) An area authority or county program may share confidential information regarding any client with any area facility, and any area facility may share confidential information regarding any client of that facility with the area authority or county program, when the area authority or county program determines the disclosure is necessary to develop, manage, monitor, or evaluate the area authority's or county program's network of qualified providers as provided in G.S. 122C-115.2(b)(1)b., G.S. 122C-141(a), the State Plan, and rules of the Secretary. For the purposes of this subsection, the purposes or activities for which confidential information may be disclosed include, but are not limited to, quality assessment and improvement activities, provider accreditation and staff credentialing, developing contracts and negotiating rates, investigating and responding to client grievances and complaints, evaluating practitioner and provider performance, auditing functions, on-site monitoring, conducting consumer satisfaction studies, and collecting and analyzing performance data.

(a5) Any area facility may share confidential information with any other area facility regarding an applicant when necessary to determine whether the applicant is eligible for area facility services. For the purpose of this subsection, the term "applicant" means an individual who contacts an area facility for services.

(b) A facility, physician, or other individual responsible for evaluation, management, supervision, or treatment of respondents examined or committed for outpatient treatment under the provisions of Article 5 of this Chapter may request, receive, and disclose confidential information to the extent necessary to enable them to fulfill their responsibilities.

(c) A facility may furnish confidential information in its possession to the Department of Correction when requested by that department regarding any client of that facility when the inmate has been determined by the Department of Correction to be in need of treatment for mental illness, developmental disabilities, or substance abuse. The Department of Correction may furnish to a facility confidential information in its possession about treatment for mental illness, developmental disabilities, or substance

abuse that the Department of Correction has provided to any present or former inmate if the inmate is presently seeking treatment from the requesting facility or if the inmate has been involuntarily committed to the requesting facility for inpatient or outpatient treatment. Under the circumstances described in this subsection, the consent of the client or inmate shall not be required in order for this information to be furnished and the information shall be furnished despite objection by the client or inmate. Confidential information disclosed pursuant to this subsection is restricted from further disclosure.

(d) A responsible professional may disclose confidential information when in his opinion there is an imminent danger to the health or safety of the client or another individual or there is a likelihood of the commission of a felony or violent misdemeanor.

(e) A responsible professional may exchange confidential information with a physician or other health care provider who is providing emergency medical services to a client. Disclosure of the information is limited to that necessary to meet the emergency as determined by the responsible professional.

(e1) A State facility may furnish client identifying information to the Department for the purpose of maintaining an index of clients served in State facilities which may be used by State facilities only if that information is necessary for the appropriate and effective evaluation, care and treatment of the client.

(e2) A responsible professional may disclose an advance instruction for mental health treatment or confidential information from an advance instruction to a physician, psychologist, or other qualified professional when the responsible professional determines that disclosure is necessary to give effect to or provide treatment in accordance with the advance instruction.

(f) A facility may disclose confidential information to a provider of support services whenever the facility has entered into a written agreement with a person to provide support services and the agreement includes a provision in which the provider of support services acknowledges that in receiving, storing, processing, or otherwise dealing with any confidential information, he will safeguard and not further disclose the information.

(g) Whenever there is reason to believe that the client is eligible for financial benefits through a governmental agency, a facility may disclose confidential information to ~~State~~ State, local, or federal government agencies. ~~Disclosure~~ Except as provided in G.S. 122C-55(a3), disclosure is limited to that confidential information necessary to establish financial benefits for a client. After establishment of these benefits, the consent of the client or his legally responsible person is required for further release of confidential information under this subsection.

(h) Within a facility, employees, students, consultants or volunteers involved in the care, treatment, or habilitation of a client may exchange confidential information as needed for the purpose of carrying out their responsibility in serving the client.

(i) Upon specific request, a responsible professional may release confidential information to a physician or psychologist who referred the client to the facility.

(j) Upon request of the next of kin or other family member who has a legitimate role in the therapeutic services offered, or other person designated by the client or his legally responsible person, the responsible professional shall provide the next of kin or other family member or the designee with notification of the client's diagnosis, the prognosis, the medications prescribed, the dosage of the medications prescribed, the

side effects of the medications prescribed, if any, and the progress of the client, provided that the client or his legally responsible person has consented in writing, or the client has consented orally in the presence of a witness selected by the client, prior to the release of this information. Both the client's or the legally responsible person's consent and the release of this information shall be documented in the client's medical record. This consent shall be valid for a specified length of time only and is subject to revocation by the consenting individual.

(k) Notwithstanding the provisions of G.S. 122C-53(b) or G.S. 122C-206, upon request of the next of kin or other family member who has a legitimate role in the therapeutic services offered, or other person designated by the client or his legally responsible person, the responsible professional shall provide the next of kin, or family member, or the designee, notification of the client's admission to the facility, transfer to another facility, decision to leave the facility against medical advice, discharge from the facility, and referrals and appointment information for treatment after discharge, after notification to the client that this information has been requested.

(l) In response to a written request of the next of kin or other family member who has a legitimate role in the therapeutic services offered, or other person designated by the client, for additional information not provided for in subsections (j) and (k) of this section, and when such written request identifies the intended use for this information, the responsible professional shall, in a timely manner:

- (1) Provide the information requested based upon the responsible professional's determination that providing this information will be to the client's therapeutic benefit, and provided that the client or his legally responsible person has consented in writing to the release of the information requested; or
- (2) Refuse to provide the information requested based upon the responsible professional's determination that providing this information will be detrimental to the therapeutic relationship between client and professional; or
- (3) Refuse to provide the information requested based upon the responsible professional's determination that the next of kin or family member or designee does not have a legitimate need for the information requested.

(m) The Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services shall adopt rules specifically to define the legitimate role referred to in subsections (j), (k), and (l) of this section."

**SECTION 4.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 30<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 11:28 a.m. on the 10<sup>th</sup> day of July, 2003.

## **H.B. 684**

## **Session Law 2003-314**

AN ACT TO PROVIDE FOR FINANCING THE CONSTRUCTION OF A NEW PSYCHIATRIC HOSPITAL TO BE LOCATED IN BUTNER.

*The General Assembly of North Carolina enacts:*

**PART 1. STATE PSYCHIATRIC HOSPITAL FINANCE ACT**

**SECTION 1.** Chapter 142 of the General Statutes is amended by adding a new Article to read:

"Article 9.

"State Psychiatric Hospital Finance Act.

**"§ 142-80. Short title.**

This Article may be cited as the State Psychiatric Hospital Finance Act.

**"§ 142-81. Definitions.**

The following definitions apply in this Article:

- (1) Bonded indebtedness. – Limited obligation bonds and bond anticipation notes, including refunding bonds and notes, authorized to be issued under this Article.
- (2) Bonds or notes. – Limited obligation bonds and notes authorized to be issued under this Article.
- (3) Capital facility. – Any one or more of the following:
  - a. Any one or more buildings, utilities, structures, or other facilities or property developments, including streets and landscaping, and the acquisition of equipment, machinery, and furnishings in connection with these items.
  - b. Additions, extensions, enlargements, renovations, and improvements to existing buildings, utilities, structures, or other facilities or property developments, including streets and landscaping.
  - c. Land or an interest in land.
  - d. Other infrastructure.
  - e. Furniture, fixtures, equipment, vehicles, machinery, and similar items.
- (4) Certificates of participation. – Certificates or other instruments delivered by a special corporation evidencing the assignment of proportionate undivided interests in rights to receive payments pursuant to a financing contract.
- (5) Certificates of participation indebtedness. – Financing contract indebtedness incurred by the State under a plan of finance in which a special corporation obtains funds to pay the cost of a capital facility to be financed through the delivery by the special corporation of certificates of participation.
- (6) Cost. – Any of the following in financing the cost of capital facilities as authorized by this Article:
  - a. The cost of constructing, reconstructing, renovating, repairing, enlarging, acquiring, and improving capital facilities, including the acquisition of land, rights-of-way, easements, franchises, equipment, machinery, furnishings, and other interests in real or personal property acquired or used in connection with a capital facility.
  - b. The cost of engineering, architectural, and other consulting services.
  - c. The cost of providing personnel to ensure effective management of capital facilities.

- d. Finance charges, reserves for debt service, other types of reserves required pursuant to the terms of any special indebtedness or related documents, and interest before and during construction or acquisition of a capital facility and, if considered advisable by the State Treasurer, for a period not exceeding two years after the estimated date of completion of construction or acquisition.
  - e. Administrative expenses and charges.
  - f. The cost of bond insurance, investment contracts, credit enhancement facilities and liquidity facilities, interest rate swap agreements or other derivative products, financial and legal consultants, and related costs of the incurrence or issuance of special indebtedness.
  - g. The cost of reimbursing the State, a State agency, or a special corporation for any payments made for any cost described in this subdivision.
  - h. Any other costs and expenses necessary or incidental to the purposes of this Article.
- (7) Credit facility. – An agreement that:
- a. Is entered into by the State with a bank, savings and loan association, or other banking institution, an insurance company, reinsurance company, surety company or other insurance institution, a corporation, investment banking firm or other investment institution, or any financial institution or other similar provider of a credit facility, which provider may be located within or without the United States of America; and
  - b. Provides for prompt payment of all or any part of the principal or purchase price (whether at maturity, presentment or tender for purchase, redemption, or acceleration), redemption premium, if any, and interest with respect to any special indebtedness payable on demand or tender by the owner in consideration of the State's agreeing to repay the provider of the credit facility in accordance with the terms and provisions of the agreement.
- (8) Department of Administration. – The North Carolina Department of Administration created by Article 36 of Chapter 143 of the General Statutes, or if the Department is abolished or otherwise divested of its functions under this Article, the public body succeeding it in its principal functions or upon which are conferred by law the rights, powers, and duties given by this Article to the Department.
- (9) Financing contract. – A contract entered into pursuant to this Article to finance capital facilities and constituting a lease-purchase contract, installment purchase contract, or other similar type of installment financing contract. The term does not include, however, a contract that meets any one of the following conditions:
- a. It constitutes an operating lease under generally accepted accounting principles.
  - b. It provides for the payment under the contract over its full term, including periods that may be added to the original term

- through the exercise of options to renew or extend, of an aggregate principal amount of not in excess of five thousand dollars (\$5,000) or any greater amount that may be established by the Council of State if the Council of State determines (i) the aggregate amount to be paid under these contracts will not have a significant impact on the State budgetary process or the economy of the State and (ii) the change will lessen the administrative burden on the State.
- c. It is executed and provides for the making of all payments under the contract, including payment to be made during any period that may be added to the original term through the exercise of options to renew or extend, in the same fiscal year.
- (10) Financing contract indebtedness. – Indebtedness incurred pursuant to a financing contract, including certificates of participation indebtedness.
- (11) Fiscal period. – A fiscal biennium or a fiscal year of the fiscal biennium.
- (12) Fiscal year. – The fiscal year of the State beginning on July 1 of one calendar year and ending on June 30 of the next calendar year.
- (13) Limited obligation bond. – A limited obligation bond issued pursuant to G.S. 142-88 and payable and secured as provided in G.S. 142-89.
- (14) Par formula. – A provision or formula adopted by the State to provide for the adjustment, from time to time, of the interest rate or rates borne or provided for by any special indebtedness, including any of the following:
- a. A provision providing for an adjustment so that the purchase price of special indebtedness in the open market would be as close to par as possible.
- b. A provision providing for an adjustment based upon a percentage or percentages of a prime rate or base rate, which percentages may vary or be applied for different periods of time.
- c. Any provision that the State Treasurer determines is consistent with this Article and will not materially and adversely affect the financial position of the State and the marketing of special indebtedness at a reasonable interest cost to the State.
- (15) Person. – An individual, a firm, a partnership, an association, a corporation, a limited liability company, or any other organization or group acting as a unit.
- (16) Special corporation. – Either of the following:
- a. A nonprofit corporation created under Chapter 55A of the General Statutes for the purpose of facilitating the incurrence of certificates of participation indebtedness by the State under this Article.
- b. A private corporation or other entity issuing certificates of participation pursuant to this Article.
- (17) Special indebtedness. – Financing contract indebtedness and bonded indebtedness issued or incurred pursuant to this Article.
- (18) State. – The State of North Carolina, including any State agency.

- (19) State agency. – Any agency, institution, board, commission, bureau, council, department, division, officer, or employee of the State. The term does not include counties, municipal corporations, political subdivisions, local boards of education, or other local public bodies.
- (20) State Treasurer. – The incumbent Treasurer, from time to time, of the State.

**"§ 142-82. Authorization of special indebtedness; General Assembly approval.**

The State may incur or issue special indebtedness subject to the terms and conditions provided in this Article for the purpose of financing the cost of a State psychiatric hospital that meet one of the following conditions:

- (1) The General Assembly has enacted legislation describing the capital facility and authorizing its financing by the incurrence or issuance of special indebtedness up to a specific maximum amount.
- (2) The General Assembly has enacted legislation authorizing the incurrence or issuance of special indebtedness up to a specific maximum amount for a specific category of capital facilities and the capital facility meets all of the conditions set in that legislation.

**"§ 142-83. Procedure for incurrence or issuance of special indebtedness.**

(a) Notice and Certificate. – Whenever the State or a State agency intends to use special indebtedness to finance capital facilities, it shall notify the Department of Administration. If the Department of Administration intends for the State to use special indebtedness to finance the capital facilities, it shall provide written notice to the State Treasurer advising the State Treasurer of its intent. The State Treasurer may require a preliminary conference with the Department of Administration to consider the proposed financing.

After the filing of the notice and after any preliminary conference, the State Treasurer shall consult with the Office of State Budget and Management as to the revenues expected by that Office to be available to pay all sums to come due on the special indebtedness during its term. If, after consulting with the Office of State Budget and Management, the State Treasurer determines by written certificate that it may be desirable to use special indebtedness to finance the capital facilities, the Department of Administration shall request the Council of State to give its preliminary approval of the use of special indebtedness to finance the capital facilities. The Department of Administration must promptly file copies of the notice and certificate required by this subsection with the Governor and the Council of State.

(b) Preliminary Approval. – The Council of State, upon receipt of the notice and certificate required by subsection (a) of this section, shall adopt a resolution granting or denying preliminary approval of the financing. A resolution granting preliminary approval may include any other terms, conditions, and restrictions the Council of State considers appropriate and not inconsistent with the provisions of this Article.

(c) Final Approval. – Before any special indebtedness may be incurred or issued pursuant to this Article, the Council of State must authorize the indebtedness by resolution, either as part of or separate from the resolution required by subsection (b) of this section. The resolution must do all of the following:

- (1) Authorize the providing of a particular capital facility or, in general terms, the types or classifications of capital facilities to be provided.
- (2) Set the aggregate principal amount or maximum principal amount of the special indebtedness authorized.



- (3) Set the maturity or maximum maturity of the special indebtedness authorized.
- (4) Set the rate, rates, or maximum rate of interest, which may be fixed or vary over a period of time, of the special indebtedness authorized.
- (5) Include any other conditions or matters not inconsistent with the provisions of this Article in the discretion of the Council of State, which may include the adoption or approvals as may be authorized in G.S. 142-88 and G.S. 142-89.

(d) Oversight by Treasurer. – No special indebtedness shall be incurred or issued without the prior written approval of the State Treasurer as provided in this subsection, which is in addition to the certificate given by the State Treasurer pursuant to subsection (a) of this section. In determining whether to approve the proposed financing, the State Treasurer may consider any factors the State Treasurer considers relevant in order to find and determine all of the following:

- (1) The amounts to become due under the special indebtedness, including the interest component or rate, are adequate and not excessive for the purpose proposed.
- (2) The increase, if any, in State revenues, including taxes, necessary to pay the sums to become due under the special indebtedness is not excessive.
- (3) The special indebtedness can be incurred or issued on terms desirable to the State.

(e) Designation of Facilities. – If the Council of State authorized in general terms the types or classifications of capital facilities to be financed, then the particular capital facilities and the principal amount of special indebtedness to be incurred or issued for each particular capital facility shall be determined by the Department of Administration after considering any factors it considers relevant in order to determine that the particular capital facility to be provided is desirable for the efficient operation of the State and its agencies and is in the best interests of the State.

(f) Type of Debt and Security. – In the absence of a determination by the Council of State, the State Treasurer, after consultation with the Department of Administration, shall determine the specific security offered and whether the special indebtedness to be issued or incurred shall be financing contract indebtedness, certificates of participation indebtedness, bonded indebtedness, or some combination of these.

(g) Administration. – The State Treasurer, after consultation with the Department of Administration, shall develop appropriate documents for use under this Article. The State Treasurer shall employ and designate the financial consultants, fiduciaries and other agents, underwriters, and bond attorneys to be associated with the incurrence or issuance of special indebtedness pursuant to this Article.

(h) Report to Joint Legislative Commission. – After all the requirements for approval and oversight provided in this section have been met, and at least five days before the issuance or incurrence of the special indebtedness, the State Treasurer must report to the Joint Legislative Commission on Governmental Operations. This report must include the details of the proposed special indebtedness, including the capital facilities to be financed by the indebtedness, the amount of the proposed indebtedness, the type of indebtedness to be issued or incurred, and any other information required by the Commission.

**"§ 142-84. Security; other requirements.**

(a) Security. – In order to secure (i) lease or installment payments to be made to the lessor, seller, or other person advancing moneys or providing financing under a financing contract, (ii) payment of the principal of and interest on bonded indebtedness, or (iii) payment obligations of the State to the provider of bond insurance, a credit facility, a liquidity facility, or a derivative agreement, special indebtedness may create any combination of the following:

- (1) A lien on or security interest in one or more, all, or any part of the capital facilities to be financed by the special indebtedness.
- (2) If the special indebtedness is to finance construction of improvements on real property, a lien on or security interest in all or any part of the land on which the improvements are to be located.
- (3) If the special indebtedness is to finance renovations or improvements to existing facilities or the installation of fixtures in existing facilities, a lien on or security interest in one or more, all, or any part of the facilities.

(b) Value of Security; Multiple Liens. – The estimated value of the property subject to the lien or security interest need not bear any particular relationship to the principal amount of the special indebtedness or other obligation it secures. This Article does not limit the right of the State to grant multiple liens or security interests in a capital facility or other property to the extent not otherwise limited by the terms of any special indebtedness.

(c) Governor's Budget. – Documentation relating to any special indebtedness may include provisions requesting the Governor to submit in the Governor's budget proposal or any amendments or supplements to the budget proposed appropriations necessary to make the payments required by the special indebtedness.

(d) Source of Repayment. – The payment of amounts payable by the State under special indebtedness or any related documents during any fiscal period shall be limited to funds appropriated for that purpose by the General Assembly in its discretion.

(e) No Deficiency Judgment or Pledge. – No deficiency judgment may be rendered against the State in any action for breach of any obligation under special indebtedness or any related documents. The taxing power of the State is not and may not be pledged directly or indirectly to secure any moneys due under special indebtedness or any related documents. In the event that the General Assembly does not appropriate sums sufficient to make payments required under any special indebtedness or any related documents, the net proceeds received from the sale or other disposition of the property subject to the lien or security interest shall be applied to satisfy these payment obligations in accordance with the deed of trust, security agreement, or other documentation relating to the lien or security interest. These net proceeds are appropriated for the purpose of making these payments. Any net proceeds in excess of the amount required to satisfy the obligations of the State under any special indebtedness or any related documents shall be paid to the State Treasurer for deposit to the General Fund.

(f) Nonsubstitution Clause. – A financing contract, issue of bonded indebtedness, or other related document shall not contain a nonsubstitution clause that restricts the right of the State to (i) continue to provide a service or conduct an activity or (ii) replace or provide a substitute for any capital facility.

(g) Protection of Lender. – Special indebtedness may contain any provisions for protecting and enforcing the rights and remedies of the person advancing moneys or providing financing under a financing contract, the owners of bonded indebtedness, or others to whom the State is obligated under special indebtedness or any related documents as may be reasonable and proper and not in violation of law. These provisions may include covenants setting forth the duties of the State in respect of any of the following:

- (1) The purposes to which the proceeds of special indebtedness may be applied.
- (2) The disposition and application of the revenues of the State, including taxes.
- (3) Insuring, maintaining, and other duties with respect to the capital facilities financed.
- (4) The disposition of any charges and collection of any revenues and administrative charges.
- (5) The terms and conditions of the issuance of additional special indebtedness.
- (6) The custody, safeguarding, investment, and application of all moneys.

(h) State Property Law Exception. – Chapter 146 of the General Statutes does not apply to any transfer of the State's interest in property authorized by this Article, whether to a deed of trust trustee or other secured party as security for special indebtedness, or to a purchaser of property in connection with a foreclosure or similar conveyance of property to realize upon the security for special indebtedness following the State's default on its obligations under the special indebtedness.

**"§ 142-85. Financing contract indebtedness.**

(a) Treasurer Oversight. – Financing contract indebtedness shall not be incurred until all documentation providing for its incurrence has been approved by the State Treasurer, after the State Treasurer has consulted with the Department of Administration.

(b) Interest Component. – A financing contract may provide for payments under the contract to represent principal and interest components of the cost of the capital facility to be financed, as determined by the State Treasurer.

(c) Bidding. – Financing contracts may be entered into pursuant to any applicable public or competitive bidding process or any private or negotiated process, to the extent required by applicable law, and if not so required, as may be determined by the Department of Administration after consulting with the State Treasurer.

(d) Party. – All financing contracts shall be executed on behalf of the State by the State Treasurer or, upon delegation by the State Treasurer after having approved the financing contract, by the Department of Administration.

(e) Credit Facility. – If the State Treasurer determines that it is in the best interest of the State, the State Treasurer may arrange for the delivery of a credit facility to secure payment under any financing contract. The State Treasurer may also provide that payments by the State representing the interest component of the payments to be made under a financing contract may be calculated based upon a fixed or a variable rate of interest.

(f) Terms and Conditions. – All other conditions set forth elsewhere in this Article with respect to financing contract indebtedness shall also be satisfied prior to incurring any financing contract indebtedness. To the extent applicable as conclusively

determined by the State Treasurer, the provisions of G.S. 142-89, 142-90, and 142-91 apply to financing contract indebtedness.

**"§ 142-86. Additional requirements for certificates of participation indebtedness.**

(a) Treasurer Oversight. – A financing contract shall not be used in connection with the delivery of certificates of participation by a special corporation until all documentation providing for its use has been approved by the State Treasurer, after the State Treasurer has consulted with the Department of Administration. All documentation providing for the delivery and sale of certificates of participation must be approved by the State Treasurer.

(b) Procedure. – The special corporation, if used, shall request the approval of the State Treasurer in writing and shall furnish any information and documentation relating to the delivery and sale of the certificates of participation requested by the State Treasurer. In determining whether to approve the financing in the documentation, the State Treasurer shall consider the factors set forth in G.S. 142-84(d), as well as the effect of the proposed financing upon any scheduled or proposed sale of debt obligations by the State or a unit of local government in the State.

(c) Terms; Interest. – Certificates of participation may be sold by the State Treasurer in the manner, either at public or private sale, and for any price or prices that the State Treasurer determines to be in the best interest of the State and to effect the purposes of this Article, except that the terms of the sale must also be approved by the special corporation. Interest payable with respect to certificates of participation shall accrue at the rate or rates determined by the State Treasurer with the approval of the special corporation.

(d) Trust Agreement. – Certificates of participation may be delivered pursuant to a trust agreement or similar instrument with a corporate trustee approved by the State Treasurer, and the provisions of G.S. 142-89(h) apply to the trust agreement or similar instrument to the extent applicable.

(e) Other Conditions. – All other conditions set forth elsewhere in this Article with respect to certificates of participation indebtedness, including the conditions set forth in G.S. 142-86, must be satisfied before any certificates of participation indebtedness is incurred.

**"§ 142-87. Bonded indebtedness.**

The State Treasurer is authorized, by and with the consent of the Council of State as provided in this Article, to issue and sell at one time or from time to time bonds of the State to be designated "State of North Carolina Limited Obligation Bonds, Series \_\_\_\_\_" or notes of the State as provided in this Article, for the purpose of providing funds, with any other available funds, for the uses authorized in this Article.

**"§ 142-88. Issuance of limited obligation bonds and notes.**

(a) Terms and Conditions. – Bonds or notes may bear any dates, may be serial or term bonds or notes, or any combination of these, may mature in any amounts and at any times, not exceeding 40 years from their dates, may be payable at any places, either within or without the United States, in any coin or currency of the United States that at the time of payment is legal tender for payment of public and private debts, may bear interest at any rates, which may vary from time to time, and may be made redeemable before maturity, at the option of the State or otherwise as may be provided by the State, at any prices, including a price greater than the face amount of the bonds or notes, and under any terms and conditions, all as may be determined by the State Treasurer, by and with the consent of the Council of State.

(b) Signatures; Form and Denomination; Registration. – Bonds or notes may be issued in certificated or uncertificated form. If issued in certificated form, bonds or notes shall be signed on behalf of the State by the Governor or shall bear the Governor's facsimile signature, shall be signed by the State Treasurer, or shall bear the State Treasurer's facsimile signature, and shall bear the great seal of the State or a facsimile of the seal impressed or imprinted on them. If bonds or notes bear the facsimile signatures of the Governor and the State Treasurer, the bonds or notes shall also bear a manual signature which may be that of a bond registrar, trustee, paying agent, or designated assistant of the State Treasurer. If any officer whose signature or facsimile signature appears on bonds or notes issued under this Article ceases to be that officer before the delivery of the bonds or notes, the signature or facsimile signature shall nevertheless have the same validity for all purposes as if the officer had remained in office until delivery of the bonds or notes. Bonds or notes issued under this Article may bear the facsimile signatures of persons, who at the actual time of the execution of the bonds or notes were the proper officers to sign any bond or note although at the date of the bond or note those persons may not have been officers.

The form and denomination of bonds or notes, including the provisions with respect to registration of the bonds or notes and any system for their registration, shall be as prescribed by the State Treasurer in conformity with this Article.

(c) Manner of Sale; Expenses. – Subject to the approval by the Council of State as to the manner in which bonds or notes will be offered for sale, whether at public or private sale, whether within or without the United States, and whether by publishing notices in certain newspapers and financial journals, mailing notices, inviting bids by correspondence, negotiating contracts of purchase or otherwise, the State Treasurer is authorized to sell bonds or notes at one time or from time to time at any rates of interest, which may vary from time to time, and at any prices, including a price less than the face amount of the bonds or notes, as the State Treasurer may determine. All expenses incurred in the preparation, sale, and issuance of bonds or notes shall be paid by the State Treasurer from the proceeds of bonds or notes or other available moneys.

(d) Application of Proceeds. – The proceeds of any bonds or notes shall be used solely for the purposes for which the bonds or notes were issued and shall be disbursed in the manner and under the restrictions, if any, that the Council of State may provide in the resolution authorizing the issuance of, or in any trust agreement securing, the bonds or notes.

Any additional moneys that may be received by means of a grant or grants from the United States or any agency or department thereof or from any other source to aid in financing the cost of a capital facility may be disbursed, to the extent permitted by the terms of the grant or grants, without regard to any limitations imposed by this Article.

(e) Notes; Repayment. – By and with the consent of the Council of State, the State Treasurer is authorized to borrow money and to execute and issue notes of the State for the same, but only in any of the following circumstances and under the following conditions:

- (1) For anticipating the sale of bonds, the issuance of which the Council of State has approved if the State Treasurer considers it advisable to postpone the issuance of the bonds.
- (2) For the payment of interest on or any installment of principal of any bonds then outstanding if there are not sufficient funds in the State treasury with which to pay the interest or installment of principal as they respectively become due.

- (3) For the renewal of any loan evidenced by notes authorized in this Article.
- (4) For the purposes authorized in this Article.
- (5) For refunding bonds or notes or financing contract indebtedness as authorized in this Article.

Funds derived from the sale of limited obligation bonds or notes may be used in the payment of any bond anticipation notes issued under this Article. Funds provided by the General Assembly for the payment of interest on or principal of bonds shall be used in paying the interest on or principal of any notes and any renewals thereof, the proceeds of which have been used in paying interest on or principal of the bonds.

(f) Refunding Bonds and Notes. – By and with the consent of the Council of State, the State Treasurer is authorized to issue and sell refunding bonds and notes for the purpose of refunding special indebtedness and to pay the cost of issuance of the refunding bonds or notes. The refunding bonds and notes may be combined with any other issues of State bonds and notes issued pursuant to this Article. Refunding bonds or notes may be issued at any time prior to the final maturity of the debt or obligation to be refunded. The proceeds from the sale of any refunding bonds or notes shall be applied to the immediate payment and retirement of the obligations being refunded or, if not required for the immediate payment of the obligations being refunded, the proceeds shall be deposited in trust to provide for the payment and retirement of the obligations being refunded and to pay any expenses incurred in connection with the refunding. Money in a trust fund may be invested in (i) direct obligations of the United States government, (ii) obligations the principal of and interest on which are guaranteed by the United States government, (iii) to the extent then permitted by law, obligations of any agency or instrumentality of the United States government, or (iv) certificates of deposit issued by a bank or trust company located in the State if the certificates are secured by a pledge of any of the obligations described in (i), (ii), or (iii) above having an aggregate market value, exclusive of accrued interest, equal at least to the principal amount of the certificates so secured. This section does not limit the duration of any deposit in trust for the retirement of obligations being refunded but that have not matured and are not presently redeemable, or if presently redeemable, have not been called for redemption.

(g) Security. – Payment of the principal of and the interest on bonds and notes shall be secured as provided in G.S. 142-85.

(h) Trust Agreement. – In the discretion of the State Treasurer, any bonds and notes issued under this Article may be secured by a trust agreement or similar instrument between the State and a corporate trustee or by a resolution of the Council of State providing for the appointment of a corporate trustee. The corporate trustee may be, in either case, any trust company or bank that has the powers of a trust company within or without the State. The trust agreement or similar instrument or resolution, hereinafter referred to as "the trust", may provide for security and pledges and assignments that are permitted under this Article and may provide for the granting of a lien or security interest as authorized by G.S. 142-85. The trust may contain any provisions for protecting and enforcing the rights and remedies of the owners of any bonds or notes issued under the trust that are reasonable and not in violation of law, including covenants setting forth the duties of the State with respect to the purposes for which bond or note proceeds may be applied, the disposition and application of the revenues or assets of the State, the duties of the State with respect to the capital facilities financed, the disposition of any charges and collection of any revenues and administrative charges, the terms and conditions of the issuance of additional bonds and notes, and the

custody, safeguarding, investment, and application of all moneys. All bonds and notes issued under this Article pursuant to the same trust shall be equally and ratably secured as provided in the trust, without priority by reasons of number, dates of bonds or notes, execution, or delivery, in accordance with the provisions of this Article and of the trust. The trust may, however, provide that bonds or notes issued pursuant to the trust shall, to the extent and in the manner prescribed in the trust, be subordinated and junior in standing, with respect to the payment of principal and interest and to the security of the payment, to any other bonds or notes issued pursuant to the trust. It is lawful for any bank or trust company that may act as depository of the proceeds of bonds or notes, revenues, or any other money under this Article to furnish any indemnifying bonds or to pledge any securities that may be required by the State Treasurer. The trust may set out the rights and remedies of the owners of any bonds or notes and of any trustee, and may restrict the individual rights of action by the owners. In addition to the foregoing, the trust may contain any other provisions the State Treasurer considers appropriate for the security of the owners of any bonds or notes. Expenses incurred in carrying out the provisions of the trust may be treated as a part of the cost of any capital facility or as an administrative charge and may be paid from the proceeds of the bonds or notes or from any other available funds.

**"§ 142-89. Variable rate demand bonds and notes and financing contract indebtedness.**

(a) In fixing the details of special indebtedness, the State Treasurer may make the special indebtedness subject to any of the following conditions:

- (1) It is payable from time to time on demand or tender for purchase by the owner thereof, if a credit facility supports the special indebtedness, unless the State Treasurer specifically determines that a credit facility is not required upon a determination by the State Treasurer that the absence of a credit facility will not materially and adversely affect the financial position of the State or the marketing of the bonds or notes or financing contract indebtedness at a reasonable interest cost to the State.
- (2) It is additionally supported by a credit facility.
- (3) It is subject to redemption or mandatory tender for purchase prior to maturity.
- (4) It bears interest at a rate or rates that may be fixed or may vary over any period of time, as may be provided in the proceedings providing for the issuance or incurrence of the special indebtedness, including any variations that may be permitted pursuant to a par formula.
- (5) It is the subject of a remarketing agreement under which an attempt is made to remarket special indebtedness to new purchasers before its presentment for payment to the provider of the credit facility or to the State.

(b) If the aggregate principal amount payable by the State under a credit facility is in excess of the aggregate principal amount of special indebtedness secured by the credit facility, whether as a result of the inclusion in the credit facility of a provision for the payment of interest for a limited period of time or the payment of a redemption premium or for any other reason, then the amount of authorized but unissued bonds or notes and financing contract indebtedness during the term of the credit facility shall not be less than the amount of the excess, unless the payment of the excess is otherwise provided for by agreement of the State executed by the State Treasurer.

**"§ 142-90. Other agreements.**

The State Treasurer may authorize, execute, obtain, or otherwise provide for bond insurance, investment contracts, credit and liquidity facilities, credit enhancement facilities, interest rate swap agreements and other derivative products, and any other related instruments and matters the State Treasurer determines are desirable in connection with the issuance of special indebtedness. The State Treasurer is authorized to employ and designate any financial consultants, underwriters, fiduciaries, and bond attorneys to be associated with any incurrence or issuance of special indebtedness under this Article as the State Treasurer considers appropriate.

**"§ 142-91. Tax exemption.**

Special indebtedness shall at all times be free from taxation by the State or any political subdivision or any of their agencies, excepting estate, inheritance, and gift taxes; income taxes on the gain from the transfer of the indebtedness; and franchise taxes. The interest component of any payments made by the State under special indebtedness, including the interest component of any certificates of participation, is not subject to taxation as to income.

**"§ 142-92. Investment eligibility.**

Special indebtedness are securities or obligations in which all of the following may invest, including capital in their control or belonging to them: public officers, agencies, and public bodies of the State and its political subdivisions; insurance companies, trust companies, investment companies, banks, savings banks, savings and loan associations, credit unions, pension or retirement funds, and other financial institutions engaged in business in the State; and executors, administrators, trustees, and other fiduciaries. Special indebtedness are securities or obligations that may properly and legally be deposited with and received by any officer or agency of the State or political subdivision of the State for any purpose for which the deposit of bonds, notes, or obligations of the State or any political subdivision is now or may later be authorized by law.

**"§ 142-93. Procurement.**

The provisions of Articles 3, 3B, 3C, 3D, and 8 of Chapter 143 of the General Statutes and any other laws or rules of the State that relate to the acquisition and construction of State property apply to the financing through the use of special indebtedness pursuant to this Article. This section does not apply to the construction and lease-purchase, including leases with an option to purchase at the end of the lease term for a nominal sum, of State office buildings pursuant to proposals submitted before the effective date of this Article in response to requests for proposals, to the extent any of those proposals, as they may be supplemented or amended, are approved by the Department of Administration and any of these leases or lease-purchase agreements are approved by the Council of State in accordance with G.S. 143-341(4)d2."

**SECTION 1.2.** G.S. 143-341(4) is amended by adding a new sub-subdivision to read:

"d2. To purchase or finance the purchase of buildings, utilities, structures, or other facilities or property developments, including streets and landscaping, the acquisition of land, equipment, machinery, and furnishings in connection therewith; additions, extensions, enlargements, renovations and improvements to existing buildings, utilities, structures, or other facilities or property developments, including streets and landscaping; land or any interest in land; other infrastructure;



furniture, fixtures, equipment, vehicles, machinery, and similar items; or any combination of the foregoing, through installment purchase, lease-purchase, or other similar type installment financing agreements in the manner and to the extent provided in Article 9 of Chapter 142 of the General Statutes. Any contract entered into or any proceeding instituted contrary to the provisions of this paragraph is voidable in the discretion of the Council of State."

**PART 2. PSYCHIATRIC HOSPITAL CONSTRUCTION**

**SECTION 2.1.** Construction of Psychiatric Hospital. – In accordance with G.S. 142-83, as enacted by this act, this section authorizes the issuance or incurrence of financing contract indebtedness in a maximum aggregate principal amount of one hundred ten million dollars (\$110,000,000) to finance the cost of the project described in this Part, subject to the limitations described in this Part. The financing contract indebtedness shall not be incurred prior to July 1, 2004.

**SECTION 2.2.** The Project. – The project shall consist of the acquisition, construction, and equipping of an approximately 450,000 square foot, 432-bed new psychiatric hospital to be located in Butner.

**SECTION 2.3.** Authorization of Financing Contracts. – The State, with the prior approval of the State Treasurer and the Council of State, as provided in Article 9 of Chapter 142 of the General Statutes as enacted by this act, is authorized to execute and deliver one or more financing contracts in order to provide funds to the State to be used, together with other available funds, to pay the cost of the project, in an aggregate principal amount not to exceed one hundred ten million dollars (\$110,000,000). The State Treasurer may, in the Treasurer's sole discretion, require one or more reports satisfactory to the Treasurer evidencing the savings expected to be realized from the closure of existing psychiatric hospitals that are to be replaced by the project and the feasibility of the financing of the project.

**PART 3. GENERAL PROVISIONS FOR PSYCHIATRIC HOSPITAL**

**SECTION 3.1.** The Secretary of Health and Human Services shall maintain all existing educational and research programs in psychiatry and psychology conducted at Dorothea Dix Hospital and John Umstead Hospital by the University of North Carolina School of Medicine and by the Psychology Department within the College of Arts and Sciences at the University of North Carolina at Chapel Hill, unless the programs are otherwise modified by the University of North Carolina School of Medicine or the College of Arts and Sciences. The University of North Carolina School of Medicine shall retain authority over all educational and research programs in psychiatry and the University of North Carolina College of Arts and Sciences shall retain authority over all educational and research programs in psychology conducted at these hospitals and at any new State psychiatric hospital. The Secretary shall consult with the University of North Carolina School of Medicine in programmatic, operational, and facility planning of the new psychiatric hospital to ensure appropriate patient treatment and continuation of educational and research programs conducted by the University of North Carolina School of Medicine. In addition, the Secretary shall consult with the University of North Carolina College of Arts and Sciences to ensure appropriate continuation of educational and research programs conducted by the University of North Carolina College of Arts and Sciences.

**SECTION 3.2.** Part 3 of Article 8 of Chapter 153A of the General Statutes is amended by adding the following new section to read:

**"§ 153A-178. Disposition of county property for a State psychiatric hospital.**

When the Secretary of Health and Human Services selects a county for the location of a new State psychiatric hospital as authorized by law, the county selected for the location of the new State psychiatric hospital is authorized under the general law to acquire real and personal property and convey it to the State under G.S. 160A-274 or other applicable law for use as a psychiatric hospital. The county may acquire the property by eminent domain, and the power under this section is supplementary to any other power the county may have to take property by eminent domain."

**SECTION 3.3.** G.S. 143-15.3D is amended by adding the following new subsection to read:

"(c) Notwithstanding G.S. 143-18, any nonrecurring savings in State appropriations realized from the closure of any State psychiatric hospitals that are in excess of the cost of operating and maintaining a new State psychiatric hospital shall not revert to the General Fund but shall be placed in the Trust Fund and shall be used for the purposes authorized in this section. Notwithstanding G.S. 143-18, recurring savings realized from the closure of any State psychiatric hospitals shall not revert to the General Fund but shall be used for the payment of debt service on financing contract indebtedness authorized pursuant to Article 9 of Chapter 142 of the General Statutes for the construction of a new State psychiatric hospital. Any remainder not needed for this debt service shall be credited to the Department of Health and Human Services to be used only for the purposes of subsections (b)(2) and (b)(3) of this section."

**SECTION 3.4.(a)** Dorothea Dix Hospital Property Study Commission. – If any of the State-owned real property encompassing the Dorothea Dix Hospital campus is no longer needed by Dorothea Dix Hospital and is not transferred to another State agency or agencies before the sale of any or all of the property to a nongovernmental entity, options for this sale shall be considered by the Dorothea Dix Hospital Property Study Commission. The Commission shall make recommendations on the options for sale of the property to the Joint Legislative Commission on Governmental Operations before any sale of any or all parts of the property.

**SECTION 3.4.(b)** Creation and Membership. – The Dorothea Dix Hospital Property Study Commission is created. The Commission shall consist of nine members, four appointed by the President Pro Tempore of the Senate and four appointed by the Speaker of the House of Representatives. The Secretary of Health and Human Services shall serve as an ex officio member of the Commission.

**PART 4. GENERAL PROVISIONS**

**SECTION 4.1.** Interpretation of Act. (a) Additional Method. – This act provides an additional and alternative method for the doing of the things authorized by this act and shall be regarded as supplemental and additional to powers conferred by other laws. Except where expressly provided, this act shall not be regarded as in derogation of any powers now existing. The authority granted in this act is in addition to other laws now or hereinafter enacted authorizing the State to issue or incur indebtedness.

**SECTION 4.1.(b)** Statutory References. – References in this act to specific sections or Chapters of the General Statutes are intended to be references to those sections or Chapters as they may be amended from time to time by the General Assembly.

**SECTION 4.1.(c)** Liberal Construction. – This act, being necessary for the health and welfare of the people of the State, shall be liberally construed to effect its purposes.

**SECTION 4.1.(d)** Severability. – If any provision of this act or its application to any person or circumstance is held invalid, that invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

**SECTION 4.2.** Effective Date. – This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 30<sup>th</sup> day of June, 2003.

Became law upon approval of the Governor at 11:29 a.m. on the 10<sup>th</sup> day of July, 2003.

**S.B. 840**

**Session Law 2003-315**

**AN ACT TO ADOPT FOLKMOOT USA AS NORTH CAROLINA'S OFFICIAL INTERNATIONAL FESTIVAL.**

Whereas, Folkmoot USA is an annual international festival held in Western North Carolina by North Carolina International Folk Festival, Inc., to promote the cultural exchange of traditional dance and music; and

Whereas, the name "Folkmoot" is an old English word meaning "meeting of the people"; and

Whereas, the first Folkmoot festival was held in 1984 and has grown to one of the largest folk festivals of its kind; and

Whereas, most of Folkmoot's worldwide participants are not professional dancers and musicians, but ordinary people who are proud of their culture and enjoy sharing it with others; and

Whereas, these diverse, international performers wear native costumes, play unique instruments, and perform authentic folk dances; and

Whereas, over the years, 190 folk groups representing 95 countries have participated in Folkmoot; and

Whereas, Folkmoot has been named a "Top 20 Event in the Southeast" by the Southeast Tourism Society for 16 years, a 2003 "Top 100 Event in America" by the North American Bus Association, and one of North Carolina's "Most Outstanding Festivals"; and

Whereas, Folkmoot's 70,000 annual visitors come from more than 40 states and from more than half of North Carolina's cities and towns; and

Whereas, Folkmoot creates a positive economic impact of almost four million dollars in the State; and

Whereas, Folkmoot is a great cultural resource that provides entertainment and education and promotes tourism in North Carolina; and

Whereas, adopting Folkmoot USA as North Carolina's official international festival will enhance the exchange of international culture and increase tourism in North Carolina; Now, therefore,

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Chapter 145 of the General Statutes is amended by adding a new section to read:

**"§ 145-19. State International Festival.**

Folkmoot USA is adopted as the official international festival of the State of North Carolina."

**SECTION 2.** The title of Chapter 145 reads as rewritten:

**"Chapter 145.**

**~~State Flower, Bird, Tree, Shell, Mammal, Fish, Insect, Stone, Reptile and Rock, Beverage, Historical Boat, Language, Dog, Military Academy, Tartan, Watermelon Festival, Symbols and Other Official Adoptions.~~**"

**SECTION 3.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 3<sup>rd</sup> day of July, 2003.

Became law upon approval of the Governor at 11:30 a.m. on the 10<sup>th</sup> day of July, 2003.

**S.B. 408****Session Law 2003-316**

**AN ACT TO ALLOW THE CITY OF EDEN TO NEGOTIATE ANNEXATION CONTRACTS.**

*The General Assembly of North Carolina enacts:*

**SECTION 1.** The City of Eden may, by contract, provide that certain property described in the contract may not be annexed by the City under Part 2 or 3 of Article 4A of Chapter 160A of the General Statutes prior to December 31, 2013. Nothing in this act impairs the right of the General Assembly to annex any such property by specific local act.

**SECTION 2.** The City of Eden may accept, as consideration for such contract, "Payments in lieu of taxes".

**SECTION 3.** Payments in lieu of taxes under this act shall be annually computed based upon the tax valuations of the properties subject to contracts under Section 1 of this act as determined by the Rockingham County Tax Department, with the formula for making the computation being stated in each contract.

**SECTION 4.** Contracts under Section 1 of this act apply only to the following described properties:

**PARKDALE DESCRIPTION**

LYING AND BEING in Rockingham County, and beginning at a found iron marking the Northwest corner of that tract of land described in deed recorded in Deed Book 240, Page 406 to which reference is hereby made; thence North 55 degrees 04 minutes 20 seconds East 2,276.89 feet to a Spanish Oak in the West edge of what was formerly the old Marrowbone Road; thence North 35 degrees 02 minutes 30 seconds West 93.15 feet; thence North 55 degrees 04 minutes 20 seconds East 40 feet to a corner in North Carolina Highway No. 87; thence South 36 degrees 38 minutes 50 seconds East 93.15 feet to a point in the North Carolina Highway No. 87; thence South 36 degrees 38 minutes 50 seconds East 606.85 feet to a point; thence South 39 degrees 30 minutes East 511 feet to an iron on the West side of North Carolina Highway No. 87; thence South 49 degrees 57 minutes 40 seconds West 810.86 feet to a point; thence South 47 degrees 55 minutes 40 seconds West 1,651.87 feet to a found iron; thence North 32 degrees 02 minutes 30 seconds West 1,397.84 feet to the POINT OF BEGINNING, same being all of that parcel or tract of land conveyed by Carroll Knits, Inc. to Macfield by Deed dated October 7, 1976.

The above description taken from Deed Book 787, Page 790, Rockingham County Registry.

The above described property is further described pursuant to a more current survey as follows:

BEGINNING at an existing iron stake located within the right of way of NC Highway 87, said beginning point marking the northeast corner of Beatrice W. Austin (Book 596, Page 249); thence leaving NC Highway 87 South 50 degrees 16 minutes 46 seconds West 199.18 feet to an existing iron stake, South 50 degrees 7 minutes 39 seconds West 133.34 feet to an existing iron stake, South 50 degrees 14 minutes 49 seconds West 90.14 feet to an existing iron stake, South 50 degrees 13 minutes 58 seconds West 150.16 feet to an existing iron stake, South 50 degrees 21 minutes 28 seconds West 199.29 feet to an iron stake in old pine stump (control corner), South 48 degrees 15 minutes West 1411.70 feet to an iron stake (control corner), and South 47 degrees 54 minutes 17 seconds West 279.24 feet to an existing iron stake on the north right of way margin of SR 1560 and marking the southeast corner of Milton L. Overby (Book 781, Page 435); thence leaving SR 1560 and along the east line of Overby and Gordon C. Pruitt (Book 787, Page 790) North 31 degrees 48 minutes 51 seconds West 1397.10 feet to an existing iron stake; thence North 55 degrees 35 minutes 25 seconds East 323.76 feet to an existing iron stake; thence North 55 degrees 36 minutes 9 seconds East 223.96 feet to an existing iron stake; thence North 54 degrees 59 minutes 20 seconds East 348.35 feet to an existing iron stake; thence North 55 degrees 32 minutes 12 seconds East 530.77 feet to an existing iron stake; thence North 55 degrees 20 minutes 38 seconds East 630.59 feet to an existing iron stake; thence North 55 degrees 24 minutes 3 seconds East 218.0 feet to an oak tree; thence North 35 degrees 12 minutes 29 seconds West 95.25 feet to an existing iron stake; thence North 55 degrees 23 minutes 34 seconds East 39.98 feet to an existing iron stake within the right of way of NC Highway 87; thence within the right of way of Highway 87 South 36 degrees 21 minutes 6 seconds East 93.12 feet to an iron; thence South 36 degrees 26 minutes 53 seconds East 607.32 feet to an iron; thence South 39 degrees 17 minutes 59 seconds East 511.0 feet to an existing iron stake, THE POINT OF BEGINNING. This description as per as-built survey for Vintage Yarns by C. E. Robertson and Associates, RLS, dated May 28, 1990, to which reference is made for more specific description. Being the same property described in Deed Book 787, Page 790.

**SECTION 5.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 10<sup>th</sup> day of July, 2003.

Became law on the date it was ratified.

## **H.B. 685**

## **Session Law 2003-317**

AN ACT TO INCORPORATE THE TOWN OF SUNSET HARBOR.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** A Charter for the Town of Sunset Harbor is enacted to read:

"CHARTER OF THE TOWN OF SUNSET HARBOR.

"ARTICLE I. INCORPORATION AND CORPORATE POWERS.

"Section 1.1. **Incorporation and Corporate Powers.** The inhabitants of the Town of Sunset Harbor are a body corporate and politic under the name 'Town of Sunset

Harbor'. The Town of Sunset Harbor has all the powers, duties, rights, privileges, and immunities conferred and imposed upon cities by the general laws of North Carolina.

"ARTICLE II. CORPORATE BOUNDARIES.

"Section 2.1. **Town Boundaries.** Until modified in accordance with the law, the boundaries of the Town of Sunset Harbor shall be as follows:

BEGINNING at a point in the run of Mercer's Mill Pond Creek where said run of Mercer's Mill Pond Creek is intercepted by the southern boundary of River Run Plantation, as the same is shown on plats of River Run Plantation recorded in the Brunswick County Registry, as extended to the west; thence running eastwardly with the southern boundary of River Run Plantation as the same is shown on plats of River Run Plantation recorded in the Brunswick County Registry; thence across Sunset Harbor Road (State Road #1112) to the western boundaries of the Old Swain Property; thence southwardly with the western boundary of the Old Swain Property to a point where said extended line intersects with the boundary line of Lockwood Folly Township and Smithville Township in the U. S. Intracoastal Waterway, thence westwardly with the boundary line of Lockwood's Folly Township and Smithville Township in the U.S. Intracoastal Waterway, back to the run of Mercer's Mill Pond Creek; thence continuing with the run of Mercer's Mill Pond Creek, to a point in the run of Mercer's Mill Pond Creek where said run of Mercer's Mill Pond Creek is intercepted by the southern boundary of River Run Plantation, as the same is shown on plats of River Run Plantation recorded in the Brunswick County Registry, as extended to the west, the place and point of beginning.

"ARTICLE III. GOVERNING BODY.

"Section 3.1. **Structure of Governing Body.** The governing body of Sunset Harbor shall be the Board of Aldermen, which shall have five members and a Mayor.

"Section 3.2. **Temporary Officers.** Until the organizational meeting after the initial election in 2004 provided for by Section 4.1 of this Charter, Jackie Haddon is hereby appointed Mayor and Dennis Ruocco, Craig Howell, Daryl Darter, Roger Comer, and Miles Edge are appointed members of the Board of Aldermen of the Town of Sunset Harbor, and they shall possess and exercise the powers granted to the governing body until their successors are elected or appointed and qualified pursuant to this Charter. If any person named in this section is unable to serve, the remaining temporary officers shall, by majority vote, appoint a person to serve until the initial municipal election is held in 2004.

"Section 3.3. **Manner of Electing Board of Aldermen; Terms of Office.** The qualified voters of the entire Town shall elect the members of the Board of Aldermen and, except as provided in this section, they shall be elected to two-year terms. In 2004, the two candidates receiving the highest numbers of votes shall be elected to four-year terms, and the three candidates receiving the next highest numbers of votes shall be elected to two-year terms. In 2005, and biennially thereafter, three members shall be elected to two-year terms. In 2007, and biennially thereafter, two members shall be elected to two-year terms.

"Section 3.4. **Manner of Electing Mayor; Term of Office.** The qualified voters of the entire Town shall elect the Mayor. In 2004, and biennially thereafter, the Mayor shall be elected for a term of two years.

"ARTICLE IV. ELECTIONS.

"Section 4.1. **Conduct of Town Elections.** Elections shall be conducted on a nonpartisan basis and the results determined by a plurality as provided in G.S. 163-292. The initial election for town officers shall take place on a date in February of 2004

established by the Brunswick County Board of Elections. That Board shall establish a special filing period and timetable for notice and conduct of the election. Officers elected in the 2004 election shall serve until the date in 2005 or 2007 that the terms would have expired if the election had been held in 2003. Subsequent elections shall take place in the odd-numbered years as provided by general law.

"ARTICLE V. ADMINISTRATION.

"Section 5.1. **Town to Operate Under Mayor-Council Plan.** The Town of Sunset Harbor will operate under the Mayor-Council plan as provided in Part 3 of Article 7 of Chapter 160A of the General Statutes.

"Section 5.2. **Ad Valorem Taxes.** The maximum ad valorem tax rate for the Town of Sunset Harbor is hereby established as ten cents (10¢) per one hundred dollars (\$100.00) valuation, and the Board of Aldermen shall not increase that rate without the vote or consent of a majority of the qualified voters of the Town of Sunset Harbor."

**SECTION 2.** From and after the effective date of this act, the citizens and property in the Town of Sunset Harbor shall be subject to municipal taxes levied for the year beginning July 1, 2003, and for that purpose, the Town shall obtain from Brunswick County a record of property in the area incorporated in Section 1 of this act that was listed for taxes as of January 1, 2003. The Town may adopt a budget ordinance for fiscal year 2003-2004 without following the timetable in the Local Government Budget and Fiscal Control Act, but shall follow the sequence of actions in the spirit of the act insofar as is practical. For fiscal year 2003-2004, ad valorem taxes may be paid at par or face amount within 90 days of adoption of the budget ordinance and thereafter in accordance with the schedule in G.S. 105-360. If the effective date of incorporation is prior to July 1, 2003, the Town may adopt a budget ordinance for fiscal year 2002-2003 without following the timetable in the Local Government Budget and Fiscal Control Act, but shall follow the sequence of actions in the spirit of the act insofar as is practical. No ad valorem taxes may be levied for the 2002-2003 fiscal year.

**SECTION 3.** The Brunswick County Board of Elections shall conduct an election on November 4, 2003, for the purpose of submission to the qualified voters of the area described in Section 2.1 of the Charter of the Town of Sunset Harbor the question of whether or not the area shall be incorporated as the Town of Sunset Harbor. Registration for the election shall be conducted in accordance with G.S. 163-288.2.

**SECTION 4.** In the election, the question on the ballot shall be:

[ ]FOR [ ]AGAINST

Incorporation of the Town of Sunset Harbor.'

**SECTION 5.** In the election, if a majority of the votes are cast 'For the Incorporation of the Town of Sunset Harbor', Sections 1 and 2 of this act shall become effective on the date that the Brunswick County Board of Elections certifies the results of the election. Otherwise, Sections 1 and 2 of this act shall have no force and effect.

**SECTION 6.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 10<sup>th</sup> day of July, 2003.

Became law on the date it was ratified.

**H.B. 182**

**Session Law 2003-318**

AN ACT TO NAME THE HALIFAX-NORTHAMPTON REGIONAL AIRPORT AUTHORITY, TO ALLOW DUPLIN COUNTY TO USE THE SINGLE-PRIME BIDDING METHOD FOR THE CONSTRUCTION OF DUPLIN COMMONS

WITHOUT COMPLYING WITH CERTAIN STATUTORY REQUIREMENTS,  
AND CONCERNING THE INVESTMENT OF CERTAIN RETIREMENT AND  
EMPLOYEE BENEFIT FUNDS BY THE CITY OF FAYETTEVILLE.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Section 1 of S.L. 1997-275, as rewritten by Section 1 of S.L. 1998-130, reads as rewritten:

"**Section 1.** There is hereby created the '~~Halifax~~Halifax-Northampton Regional Airport Authority' (for brevity hereinafter referred to as the 'Airport Authority'), which shall be a body both corporate and politic, having the powers and jurisdiction hereinafter enumerated and such other and additional powers as shall be conferred upon it by general law and future acts of the General Assembly. For purposes of this act the word 'City' when used alone shall mean the City of Roanoke Rapids and the word 'County' when used alone shall mean either Halifax County or Northampton County."

**SECTION 2.** Section 15 of S.L. 1997-275, as rewritten by Section 8 of S.L. 1998-130, reads as rewritten:

"**Section 15.** The powers granted to the Airport Authority shall not be effective until the members of the Airport Authority have been appointed by the Halifax County Board of Commissioners, the Northampton County Board of Commissioners, and the Roanoke Rapids City Council, and nothing in this act shall require the Board of Commissioners or City Council to make the initial appointments. It is the intent of this act to enable but not to require the formation of the ~~Halifax~~Halifax-Northampton Regional Airport Authority."

**SECTION 3.** Duplin County may contract for the design and construction of the Duplin Commons project using the single-prime contract method described in G.S. 143-128(d) without requiring that all bidders identify on their bids the contractors they have selected for the subdivisions for heating, ventilating, and air conditioning, plumbing, electrical, and general. However, the lowest responsible, responsive bidder shall provide to the county the names of the contractors selected for the subdivisions within 72 hours after this act is ratified. Nothing in this act prohibits Duplin County from rejecting any and all bids for the design and construction of the Duplin Commons project.

**SECTION 4.** Notwithstanding the provisions of G.S. 159-30, the City of Fayetteville, or any governing body, agency, person, or other corporation that contracts with the City of Fayetteville for the investment, care, or administration of monies of the Supplemental Employees' Retirement Plan of the Public Works Commission of the City of Fayetteville, or of employee benefit funds as may be designated from time to time by the City of Fayetteville City Council, may invest and reinvest those monies in one or more of the types of securities or other investment authorized by State law for the State Treasurer in G.S. 147-69.2.

**SECTION 5.** Section 3 of this act becomes effective April 29, 2003, and applies to bids advertised and submitted for the Duplin Commons project. Otherwise, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 14<sup>th</sup> day of July, 2003.

Became law on the date it was ratified.



## H.B. 1170

## Session Law 2003-319

## AN ACT TO ENHANCE THE BENEFITS OF MEMBERS OF THE LOCAL GOVERNMENTAL EMPLOYEES RETIREMENT SYSTEM.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 128-27(b20) reads as rewritten:

"(b20) Service Retirement Allowance of Member Retiring on or After July 1, 2002-2002, but Before July 1, 2003. – Upon retirement from service in accordance with subsection (a) or (a1) above, on or after July 1, 2002, but before July 1, 2003, a member shall receive the following service retirement allowance:

- (1) A member who is a law enforcement officer or an eligible former law enforcement officer shall receive a service retirement allowance computed as follows:
  - a. If the member's service retirement date occurs on or after his 55th birthday and completion of five years of creditable service as a law enforcement officer, or after the completion of 30 years of creditable service, the allowance shall be equal to one and eighty-two hundredths percent (1.82%) of his average final compensation, multiplied by the number of years of his creditable service.
  - b. If the member's service retirement date occurs on or after his 50th birthday and before his 55th birthday with 15 or more years of creditable service as a law enforcement officer and prior to the completion of 30 years of creditable service, his retirement allowance shall be equal to the greater of:
    1. The service retirement allowance payable under G.S. 128-27(b20)(1)a. reduced by one-third of one percent (1/3 of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following the month the member would have attained his 55th birthday;
    2. The service retirement allowance as computed under G.S. 128-27(b20)(1)a. reduced by five percent (5%) times the difference between 30 years and his creditable service at retirement.
- (2) A member who is not a law enforcement officer or an eligible former law enforcement officer shall receive a service retirement allowance computed as follows:
  - a. If the member's service retirement date occurs on or after his 65th birthday upon the completion of five years of creditable service or after the completion of 30 years of creditable service or on or after his 60th birthday upon the completion of 25 years of creditable service, the allowance shall be equal to one and eighty-two hundredths percent (1.82%) of average final compensation, multiplied by the number of years of creditable service.
  - b. If the member's service retirement date occurs after his 60th birthday and before his 65th birthday and prior to his

completion of 25 years or more of creditable service, his retirement allowance shall be computed as in G.S. 128-27(b20)(2)a. but shall be reduced by one-quarter of one percent ( $\frac{1}{4}$  of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following his 65th birthday.

- c. If the member's early service retirement date occurs on or after his 50th birthday and before his 60th birthday and after completion of 20 years of creditable service but prior to the completion of 30 years of creditable service, his early service retirement allowance shall be equal to the greater of:
1. The service retirement allowance as computed under G.S. 128-27(b20)(2)a. but reduced by the sum of five-twelfths of one percent ( $\frac{5}{12}$  of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following the month the member would have attained his 60th birthday, plus one-quarter of one percent ( $\frac{1}{4}$  of 1%) thereof for each month by which his 60th birthday precedes the first day of the month coincident with or next following his 65th birthday; or
  2. The service retirement allowance as computed under G.S. 128-27(b20)(2)a. reduced by five percent (5%) times the difference between 30 years and his creditable service at retirement; or
  3. If the member's creditable service commenced prior to July 1, 1995, the service retirement allowance equal to the actuarial equivalent of the allowance payable at the age of 60 years as computed in G.S. 128-27(b20)(2)b.
- d. Notwithstanding the foregoing provisions, any member whose creditable service commenced prior to July 1, 1965, shall not receive less than the benefit provided by G.S. 128-27(b)."

**SECTION 2.** G.S. 128-27 is amended by adding a new subsection to read:

"(b21) Service Retirement Allowance of Member Retiring on or After July 1, 2003.  
– Upon retirement from service in accordance with subsection (a) or (a1) above, on or after July 1, 2003, a member shall receive the following service retirement allowance:

- (1) A member who is a law enforcement officer or an eligible former law enforcement officer shall receive a service retirement allowance computed as follows:
  - a. If the member's service retirement date occurs on or after his 55th birthday and completion of five years of creditable service as a law enforcement officer, or after the completion of 30 years of creditable service, the allowance shall be equal to one and eighty-five hundredths percent (1.85%) of his average final compensation, multiplied by the number of years of his creditable service.
  - b. If the member's service retirement date occurs on or after his 50th birthday and before his 55th birthday with 15 or more years of creditable service as a law enforcement officer and

prior to the completion of 30 years of creditable service, his retirement allowance shall be equal to the greater of:

1. The service retirement allowance payable under G.S. 128-27(b21)(1)a. reduced by one-third of one percent (1/3 of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following the month the member would have attained his 55th birthday;
2. The service retirement allowance as computed under G.S. 128-27(b21)(1)a. reduced by five percent (5%) times the difference between 30 years and his creditable service at retirement.

(2) A member who is not a law enforcement officer or an eligible former law enforcement officer shall receive a service retirement allowance computed as follows:

- a. If the member's service retirement date occurs on or after his 65th birthday upon the completion of five years of creditable service or after the completion of 30 years of creditable service or on or after his 60th birthday upon the completion of 25 years of creditable service, the allowance shall be equal to one and eighty-five hundredths percent (1.85%) of average final compensation, multiplied by the number of years of creditable service.
- b. If the member's service retirement date occurs after his 60th birthday and before his 65th birthday and prior to his completion of 25 years or more of creditable service, his retirement allowance shall be computed as in G.S. 128-27(b21)(2)a. but shall be reduced by one-quarter of one percent (1/4 of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following his 65th birthday.
- c. If the member's early service retirement date occurs on or after his 50th birthday and before his 60th birthday and after completion of 20 years of creditable service but prior to the completion of 30 years of creditable service, his early service retirement allowance shall be equal to the greater of:
  1. The service retirement allowance as computed under G.S. 128-27(b21)(2)a. but reduced by the sum of five-twelfths of one percent (5/12 of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following the month the member would have attained his 60th birthday, plus one-quarter of one percent (1/4 of 1%) thereof for each month by which his 60th birthday precedes the first day of the month coincident with or next following his 65th birthday; or

2. The service retirement allowance as computed under G.S. 128-27(b21)(2)a. reduced by five percent (5%) times the difference between 30 years and his creditable service at retirement; or
3. If the member's creditable service commenced prior to July 1, 1995, the service retirement allowance equal to the actuarial equivalent of the allowance payable at the age of 60 years as computed in G.S. 128-27(b21)(2)b.
- d. Notwithstanding the foregoing provisions, any member whose creditable service commenced prior to July 1, 1965, shall not receive less than the benefit provided by G.S. 128-27(b)."

**SECTION 3.** G.S. 128-27(m) reads as rewritten:

"(m) Survivor's Alternate Benefit. – Upon the death of a member in service, the principal beneficiary designated to receive a return of accumulated contributions shall have the right to elect to receive in lieu thereof the reduced retirement allowance provided by Option two of subsection (g) above computed by assuming that the member had retired on the first day of the month following the date of his death, provided that all three of the following conditions apply:

- (1) a. The member had attained such age and/or creditable service to be eligible to commence retirement with an early or service retirement allowance, or
- b. The member had obtained 20 years of creditable service in which case the retirement allowance shall be computed in accordance with ~~G.S. 128-27(b20)(1)b. or G.S. 128-27(b20)(2)c.~~ G.S. 128-27(b21)(1)b. or G.S. 128-27(b21)(2)c., notwithstanding the requirement of obtaining age 50.
- (2) The member had designated as the principal beneficiary to receive a return of his accumulated contributions one and only one person who is living at the time of his death.
- (3) The member had not instructed the Board of Trustees in writing that he did not wish the provisions of this subsection apply.

For the purpose of this benefit, a member is considered to be in service at the date of his death if his death occurs within 180 days from the last day of his actual service. The last day of actual service shall be determined as provided in subsection (l) of this section. Upon the death of a member in service, the surviving spouse may make all purchases for creditable service as provided for under this Chapter for which the member had made application in writing prior to the date of death, provided that the date of death occurred prior to or within 60 days after notification of the cost to make the purchase."

**SECTION 4.** G.S. 128-27 is amended by adding the following new subsections to read:

"(ddd) From and after July 1, 2003, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 2002, shall be increased by two percent (2.0%) of the allowance payable on June 1, 2003, in accordance with subsection (k) of this section. Furthermore, from and after July 1, 2003, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 2002, but before June 30, 2003, shall be increased by a prorated amount of two percent (2.0%) of the allowance payable as determined by the Board of Trustees based

upon the number of months that a retirement allowance was paid between July 1, 2002, and June 30, 2003.

"(eee) From and after July 1, 2003, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before June 1, 1982, shall be increased by six percent (6.0%) of the allowance payable on June 1, 2003, in accordance with subsection (k) of this section. Furthermore, from and after July 1, 2003, the retirement allowance to or on account of beneficiaries whose retirement commenced on or after July 1, 1982, but before July 1, 1993, shall be increased by one and one-tenth percent (1.1%) of the allowance payable on June 1, 2003, in accordance with subsection (k) of this section. This allowance shall be calculated on the allowance payable and in effect on June 30, 2003, so as not to be compounded on any other increase payable under subsection (k) of this section or otherwise granted by act of the 2003 Regular Session of the 2003 General Assembly.

"(fff) Increase in Allowance as to Persons on Retirement Rolls as of June 1, 2003. – From and after July 1, 2003, the retirement allowance to or on account of beneficiaries on the retirement rolls as of June 1, 2003, shall be increased by one and one-half percent (1.5%) of the allowance payable on June 1, 2003. This allowance shall be calculated on the allowance payable and in effect on June 30, 2003, so as not to be compounded on any other increase payable under subsection (k) of this section or otherwise granted by act of the 2003 General Assembly."

**SECTION 5.** This act becomes effective July 1, 2003.

In the General Assembly read three times and ratified this the 15<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 4:59 p.m. on the 15<sup>th</sup> day of July, 2003.

**S.B. 357**

**Session Law 2003-320**

AN ACT TO ALLOW MAYLAND COMMUNITY COLLEGE TO LEASE OR SELL AT PRIVATE SALE TWO PROPERTIES AND TO CLARIFY THAT THE CITY OF ROANOKE RAPIDS MAY ORDER OWNERS OF RESIDENTIAL PROPERTY TO REPAIR RATHER THAN VACATE HOUSING TO MEET MINIMUM CODE STANDARDS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Mayland Community College may, with prior approval of the State Board of Community Colleges and notwithstanding G.S. 115D-15 or Article 12 of Chapter 160A of the General Statutes:

- (1) Lease at private sale the former Lexington Furniture Building for such consideration as it deems sufficient; and
- (2) Sell at private sale the former Hampshire Hosiery Building to Mitchell County Development Foundation, Inc., for such consideration as it deems sufficient.

**SECTION 2.** Section 2 of S.L. 2003-76 reads as rewritten:

**"SECTION 2.** This act applies only to the ~~City of Greensboro.~~ Cities of Greensboro and Roanoke Rapids."

**SECTION 3.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 16<sup>th</sup> day of July, 2003.

Became law on the date it was ratified.

## S.B. 452

## Session Law 2003-321

AN ACT CONCERNING SATELLITE ANNEXATIONS BY MUNICIPALITIES IN UNION COUNTY.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 160A-58(1) reads as rewritten:

"(1) "City" means any city, town, or village without regard to population.  
~~population, except cities not qualified to receive gasoline tax allocations under G.S. 136-41.2."~~

**SECTION 2.** G.S. 160A-58.1(b) reads as rewritten:

"(b) A noncontiguous area proposed for annexation must meet all of the following standards:

- (1) The nearest point on the proposed satellite corporate limits must be not more than ~~three-two~~ miles from the primary corporate limits of the annexing ~~city.~~ city or must be contiguous to the satellite corporate limits of the annexing city.
- (2) No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city, except as set forth in subsection (b2) of this ~~section.~~ section and except that this subdivision does not apply if the area proposed for annexation is contiguous to the satellite corporate limits.
- (3) The area must be so situated that the annexing city will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.
- (4) ~~If the area proposed for annexation, or any portion thereof, is a subdivision as defined in G.S. 160A-376, all of the subdivision must be included.~~
- (5) The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed ~~ten percent (10%)~~ twenty percent (20%) of the area within the primary corporate limits of the annexing city.

This subdivision does not apply to the cities of Claremont, Concord, Conover, Newton, Sanford, Salisbury, and Southport, and the Towns of Catawba, Maiden, Midland, Swansboro, and Warsaw."

**SECTION 3.** This act applies in Union County only.

**SECTION 4.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 16<sup>th</sup> day of July, 2003.

Became law on the date it was ratified.

**H.B. 401****Session Law 2003-322**

AN ACT AUTHORIZING THE CITY OF HENDERSON TO CONVEY CERTAIN PROPERTY AT PRIVATE SALE, AND TO ALLOW THE CITY TO ACCEPT A DEED SUBJECT TO A DEED OF TRUST.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** The City of Henderson may convey by private sale to the Embassy Cultural Center Foundation, Inc., any or all of its right, title, or interest in the Embassy South Block.

**SECTION 2.** The City of Henderson may accept for public purposes a conveyance of real property subject to an existing deed of trust so long as the City of Henderson does not pledge its taxing authority or the full faith and credit of the City for the payment of the underlying loan.

**SECTION 3.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 16<sup>th</sup> day of July, 2003.

Became law on the date it was ratified.

**H.B. 474****Session Law 2003-323**

AN ACT TO AMEND THE EMERGENCY PENSION FUND FOR LAW ENFORCEMENT OFFICERS IN MECKLENBURG COUNTY.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Chapter 709 of the 1965 Session Laws and Chapter 305 of the 1967 Session Laws are repealed.

**SECTION 2.** Chapter 446 of the Public-Local Laws of 1931, as amended by Section 28.26 of Chapter 18 of the 1996 Second Extra Session, reads as rewritten:

"Section 1. This act shall be known and may be cited as "The Emergency and Pension Fund for Sworn Law Enforcement Officers of Mecklenburg County", ~~and County.~~" This act shall apply to all ~~law enforcement officers except as otherwise provided herein~~ sworn law enforcement officers employed by any city, county, or town law enforcement agency in Mecklenburg County engaged in the enforcement of the criminal laws of the State of North Carolina within the County of Mecklenburg, Mecklenburg who are killed or permanently injured while in the discharge of their official duties.

Sec. 2. "Law enforcement officers" shall be deemed to include all State-certified sworn peace officers employed in any city, county, or town law enforcement agency in Mecklenburg County who are required by the terms of their employment to give their full time to the enforcement of laws, the preservation of perfect order, the protection of life and property property, and the detection and prevention of crime and such special or part time peace officers as may be killed or permanently injured while in the actual discharge of official duties as such officers: Provided, such officers, in order to share in the benefits provided for in this act, shall register with the Officers Relief board provided for on blanks to be furnished for that purpose and in a manner to be prescribed by said board giving such information as to the duty of employment, etc., that may be prescribed by said board. ~~crime.~~ "Law enforcement officers" shall also be deemed to

include any reserve officer of an agency of Mecklenburg County and any detention officer employed by the Sheriff of Mecklenburg County.

Sec. 3. That the Mayor of the City of Charlotte, the Chief of Police of the ~~City of Charlotte, Charlotte-Mecklenburg Police Department,~~ the Chairman of the Mecklenburg County Board of Commissioners, the Sheriff of Mecklenburg County, ~~the Chief of Rural Police~~ or their designees, and their successors in office be and they are hereby constituted members ex officio of a board to be known as "~~The Officers Relief Board of Mecklenburg County~~", "The Emergency Pension Fund for Sworn Law Enforcement Officers of Mecklenburg County", to administer the provisions of this act and said board shall elect its own chairman and appoint an officer of the Board to be known as "Commissioner of the Emergency Pension Fund for Sworn Law Enforcement Officers of the County of Mecklenburg", Mecklenburg County", who shall also act as Secretary and Treasurer of the Board and shall act under the instructions of the Board in all matters pertaining to the administration of this act. And the Board shall require the Secretary and Treasurer to give good and sufficient bond, the amount to be determined in the discretion of the Board, for the proper performance of his duties as such. The premium of said bond shall be paid out of the fund herein provided for. Each ex officio member of the board may appoint an employee of the member's agency to act as the member's designee. The designee shall have the authority to cast a binding vote on behalf of the ex officio member.

Sec. 4. That ~~in order to provide funds for "The Emergency Pension Fund of the County of Mecklenburg" herein set out, there shall be taxed in the bill of costs in all criminal cases in any Court other than that of Justice of Peace wherein there is a conviction or a plea of guilty, a fee of one (\$1.00) dollar to be known as "The Emergency and Pension Fee" and the same shall be collected by the Clerk of the City Recorder's Court, the Clerk of the County Recorder's Court and the Clerk of the Superior Court and shall be paid to the Treasurer of the "Officers Relief Board of Mecklenburg County" or in cases of appeal from said City Recorder's Court or County Recorder's Court to the Superior Court, the Clerk of the Superior Court shall collect said fees and pay the same to the Treasurer of the "Officers Relief Board of Mecklenburg County."~~ All money collected by the Clerk of the City Recorder's Court, Clerk of the County Recorder's Court shall be paid over to the Treasurer of the "~~Officers Relief Board of Mecklenburg County~~" once each week and all of said money collected by the Clerk of the Superior Court shall be paid over to the Treasurer of the "~~Officers Relief Board of Mecklenburg County~~" on the first day of each and every month and they shall accompany such remittance with a detailed and itemized statement of the cases in which said funds have been collected, the blank forms for said statement shall be furnished by the "~~Officers Relief Board of Mecklenburg County~~" herein provided for. In all cases where the defendant is committed to the roads, the fee herein provided shall not be charged against said defendant where said defendant serves the sentence imposed by the Court and it is further provided that the one dollar (\$1.00) fee hereinbefore set out shall not be collected in cases of conviction or plea of guilty for the violation of the traffic or highway laws by use of a motor vehicle where the punishment provided by the Statute is not in excess of fifty dollars (\$50.00) fine or thirty days (30) imprisonment; the said fee shall be collected in all other cases for violation of said laws where the punishment fixed by the Statute is in excess of the penalties herein before mentioned; Provided further, that where the defendant is convicted on more than one charge, the fee hereinbefore provided for shall only be taxed in the cost in one conviction.



Sec. 5. The funds accumulated under this act shall be known as the ~~"Emergency and The Emergency Pension Fund of the County of Mecklenburg", for Sworn Law Enforcement Officers of Mecklenburg County~~, and shall be used as a fund for all arresting law enforcement officers, as defined in Section 2 of this act, and their families. ~~If an officer while in the actual performance of that officer's duties is killed, the board may pay any amount up to a maximum of ten thousand dollars (\$10,000) as a death benefit to the surviving spouse of the deceased officer. If the officer is not married at the time of death, the board may pay any amount up to a maximum of ten thousand dollars (\$10,000) to the nearest dependent next of kin of the deceased. It is further the true intent, meaning, and purpose of this act that the board may pay any amount less than the amount specified, and the board may refuse to make a payment of any amount in any case in any or all of the classes enumerated in this act. Further, the board may use monies from the fund to award scholarships to dependent children of officers who are either killed while in the performance of their duties or who are rendered totally disabled as a result of an injury received while in the performance of their duties. The maximum scholarship amount shall be two thousand five hundred dollars (\$2,500) per child.~~ families, under the following terms and conditions:

- (1) If a law enforcement officer is killed while in the actual performance of the officer's duties, then the Board may pay from the Fund the amount of ten thousand dollars (\$10,000) as a death benefit to the surviving spouse of the deceased officer. If the law enforcement officer is not married at the time of death, the Board may pay the death benefit to the nearest dependent next of kin of the deceased.
- (2) If the law enforcement officer is permanently and totally physically disabled due to a physical injury received in the actual performance of the officer's duties, then the Board may pay from the Fund to the law enforcement officer the amount of ten thousand dollars (\$10,000). In the event the law enforcement officer is temporarily and totally physically disabled due to a physical injury received in the performance of the officer's duties, then the Board may pay from the Fund to the law enforcement officer a disability supplement of five hundred dollars (\$500.00) a month during the time that the officer is temporarily and totally disabled up to a maximum of ten thousand dollars (\$10,000). In any event, a temporarily or permanently physically disabled law enforcement officer shall not receive more than that ten thousand dollars (\$10,000).
- (3) If a law enforcement officer is killed while in the actual performance of the officer's duties or is permanently and totally disabled, then the Board may award college scholarships to the officer's children up to a maximum amount of ten thousand dollars (\$10,000). Such scholarships may be awarded if the child is between the ages of 17 and 22 and has been accepted or is attending a fully accredited college or university.

Sec. 6. The Board created under the provisions of this act shall serve without compensation. The Secretary and Treasurer of said Board shall receive such compensation as may be provided by the Board not to exceed the sum of fifty (\$50.00) dollars per month, and the said Board shall have full power and authority to pay all expenses for administering this act including the purchase of supplies, legal advice, etc., out of the fund provided for herein. The Board shall have authority to make such rules,

regulations and provisions as may be necessary to the proper administration of this act. The Board may retain an investment firm to manage the Fund and upon a unanimous vote of the Board may increase the amount of the maximum lump sum payments by up to ten percent (10%) once every five years.

~~Sec. 7. Any person or officer of Court covered by the provisions of this act who shall fail to comply with the provisions of this act and make proper accounting and remittance to the Treasurer designated by the Board, or to the Secretary, funds collected under and by virtue of this act, as provided herein, shall be guilty of a misdemeanor, and, upon conviction, shall be fined or imprisoned, in the discretion of the Court.~~

Sec. 8. All laws and clauses of laws in conflict with this act are hereby repealed, and if any section hereof be decided by the Courts to be unconstitutional or invalid, the same shall not affect the validity of this act as a whole or any part thereof, other than the part decided to be unconstitutional or invalid.

Sec. 9. This act shall be in force and effect from and after the first day of June, one thousand nine hundred and thirty-one, but disbursement of funds in accordance with the act, except for necessary expenses of administration, and organization, shall not commence until the first day of December, one thousand nine hundred and thirty-one."

**SECTION 3.** This act becomes effective July 1, 2003.

In the General Assembly read three times and ratified this the 16<sup>th</sup> day of July, 2003.

Became law on the date it was ratified.

## H.B. 570

## Session Law 2003-324

AN ACT TO AMEND THE PROVISIONS OF THE CITY OF LUMBERTON FIREMEN'S RELIEF FUND AND SUPPLEMENTARY PENSION FUND.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Section 4 of Chapter 792 of the 1991 Session Laws, as amended by Chapter 699 of the 1995 Session Laws, reads as rewritten:

"Sec. 4. Any full time paid member of the fire department who retires or is retired under the provisions of Section 3 of this act shall receive monthly for the remainder of his life from the 'Supplementary Pension Fund' an amount equal to three dollars and twenty-five cents (\$3.25) for each full year of service with the ~~Fire Department, with the exception that, if a person who has been retired as a member of the Lumberton Fire Department is receiving disability retirement benefits under the provisions of fire department.~~ Any eligible member of the fire department who becomes permanently disabled and retires or is retired from the North Carolina Local Governmental Employees' Retirement System as set out in Article 3 of Chapter 128 of the General Statutes and as participated in by the City of Lumberton, in accordance with G.S. 128-27(c), that person shall receive from the Fund the benefit amount equivalent to which a person retired with 30 years of service is entitled. If, for any reason, the Fund created and made available for any purpose covered by this Chapter shall be insufficient to pay in full any pension benefits, or other changes, then all benefits and payments shall be reduced pro rata for as long as the deficiency in amount exists. No claim shall accrue with respect to any amount by which a pension or benefit payment shall have been reduced."

**SECTION 2.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 16<sup>th</sup> day of July, 2003.

Became law on the date it was ratified.

**H.B. 733**

**Session Law 2003-325**

AN ACT TO ALLOW RETIRED MEMBERS OF THE DURHAM FIREMEN'S SUPPLEMENTAL RETIREMENT SYSTEM TO SERVE ON THE BOARD OF TRUSTEES OF THE SYSTEM AND TO MAKE THE NAME OF THE SYSTEM GENDER-NEUTRAL.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Subsection 2(a) of Chapter 576 of the 1951 Session Laws reads as rewritten:

"(a) Two members of said board of trustees shall be chosen as follows: two members from the uniformed membership of the Durham Fire Department and Department, or one member from the uniformed membership of the Durham Fire Department and the other member from the roster of retired uniformed membership of the Durham Fire Department. These two members shall be elected by a majority vote of the uniformed members of the Fire Department of the City of Durham; ~~one of said members shall hold office for a period of one year, and the other member so appointed shall hold office for a period of two years; thereafter, each of said members chosen from the Durham Fire Department shall be appointed for a term of office consisting of a period of two years each.~~ Durham. The members shall hold office for a period of two years."

**SECTION 2.** Subsection 2(q) of Chapter 576 of the 1951 Session Laws is repealed.

**SECTION 3.** Chapter 576 of the 1951 Session Laws, as amended by Chapter 101 of the 1955 Session Laws, Chapter 1237 of the 1955 Session Laws, Chapter 427 of the 1965 Session Laws, Chapter 66 of the 1971 Session Laws, Chapter 614 of the 1971 Session Laws, Chapter 701 of the 1973 Session Laws, Chapter 463 of the 1983 Session Laws, and S.L. 2002-114, and Chapter 577 of the 1951 Session Laws, as amended by S.L. 2002-114, is amended by deleting the term "Durham Firemen's Supplemental Retirement System" each time it appears and substituting "Durham Firefighters' Supplemental Retirement System".

**SECTION 4.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 17<sup>th</sup> day of July, 2003.

Became law on the date it was ratified.

**S.B. 317**

**Session Law 2003-326**

AN ACT TO PROVIDE FOR A TWO-YEAR MORATORIUM ON ANNEXATIONS INTO THE COUNTY OF CABARRUS BY MUNICIPALITIES LOCATED PRIMARILY OUTSIDE THE COUNTY AND TO ADD TERRITORY TO THE ECONOMIC DEVELOPMENT ZONE WHERE THERE IS A MORATORIUM ON ANNEXATION AND AFFECTING ELECTRONIC SIGNATURES AND

## ELECTRONIC RECORDS FILED WITH VARIOUS COUNTY REGISTERS OF DEEDS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Except for an annexation agreement pursuant to Part 6 of Article 4A of Chapter 160A, no municipality located primarily outside of Cabarrus County may adopt any annexation ordinance, resolution of consideration, or resolution of intent under Article 4A of Chapter 160A of the General Statutes as to the following described territory in Cabarrus County:

- (1) That territory located west of the Rocky River.
- (2) That territory located south of Highway 24/27 and east of the Rocky River.

**SECTION 2.** Section 1 of S.L. 2000-7 reads as rewritten:

**"Section 1.** No annexation ordinance shall be adopted under Part 2 or 3 of Article 4A of Chapter 160A of the General Statutes nor any incorporation act shall be enacted by the General Assembly as to any or all of the following described territory prior to June 30, 2010:

Tract 1:

Beginning at a nail and cap in the intersection of centerlines for US Highway #601 and NC State Road #1119 (Wallace Road), a corner of the Midland Industrial Park (Deed recorded in the Cabarrus County Register of Deeds in Deed Book 1758 Page 235), said beginning point being located N33°-13'-32"E-3,864.92' from NCGS Monument "Kiser"(Grid Coordinates: N536,271.92 feet; E1,546,207.01 feet) (Combined Grid Factor = 0.999851569); thence from the point of the beginning and with the property line of Midland Industrial Park and the centerline of US Highway #601 the following (4) courses and distances, (1) S33°-31'-36"W - 23.13' to a railroad spike, (2) S32°-35'-59"W - 29.95' to a nail and cap, (3) S32°-44'-27"W - 574.41' to a point, (4) S32°-58'-24"W - 1719.80' to a point in the centerline of US Highway #601, the northeast corner of Corning Incorporated (Deed recorded in the Cabarrus County Register of Deeds in Deed Book 1758 Page 240); thence with the Corning Incorporated Property Line the following (9) courses and distances, (1) S32°-58'-24"W - 229.80' to a nail and cap, (2) N66°-03'-45"W - 50.23' to a 5/8" rebar, (3) S32°-56'-23"W - 1,628.41' to a concrete monument, (4) S32°-21'-17"W - 35.84' to a concrete monument, (5) S32°-55'-31"W - 591.41' to a concrete monument, (6) S64°-25'-16"E - 49.59' to a 5/8" rebar, (7) with the arc of a circular curve to the left, having a radius of 3,127.0' a distance of 551.05', and a chord distance and bearing S27°-59'-25"W - 550.34' to a point, (8) S21°-55'-46"W - 215.04' to a point, (9) S21°-35'-34"W - 369.74' to a point in the centerline of US Highway #601, the northeast corner of the property owned by Midland Industrial Park (Deed recorded in the Cabarrus County Register of Deeds in Deed Book 1793 Page 22); thence with the centerline of US Highway #601 and the property line of the Midland Industrial Park the following (2) courses and distances (1) S21°-34'-23"W - 233.73' to a point, (2) S21°-27'-48"W - 700.05' to a point in the centerline of US Highway #601; thence N71°-52'-10"W (passing irons at 50.22' and 436.37') for a total of 823.33' to an iron pin, said iron pin being the northeast corner of the property owned by Midland Industrial Park (Deed recorded in Cabarrus County Register of Deeds in Deed Book 1686 Page 313); thence with the property line of Midland Industrial Park the following (6) courses and distances (1) S21°-33'-31"W - 17.42' to an iron pin, (2) S27°-16'-50"W - 1134.60' to iron pin, (3) N72°-14'-53"W - 154.76' to an iron pin, (4) N 52°-37'-30"W 1021.85' to a railroad iron, (5)

N45°-59'-15"W - 228.96' to an iron pin, (6) N36°-35'-34"E - 739.91' to a nail, said nail being the southwest corner of the property owned by Midland Industrial Park (Deed recorded in the Cabarrus County Register of Deeds in Deed Book 1793 Page 22); thence with the property line of Midland Industrial Park N16°-09'-42"E - 1,126.41' to a 1 1/2" OT Iron Pipe, said 1 1/2" OT Iron Pipe being the southwest corner of the property owned by Corning Incorporated (Deed recorded in Cabarrus County Register of Deeds in Deed Book 1758 Page 240); thence with the property line of Corning Incorporated the following (8) courses and distances (1) N16°-32'-58"E - 1,166.94' to an iron pin, (2) N06°-09'-53"E - 154.65' to an iron pin, (3) S78°-05'-55"E - 918.49' to an iron pin, (4) N03°-11'-46"W - 606.49' to a concrete monument, (5) N03°-11'-50"W - 455.25' to a concrete monument, (6) S75°-17'-59"E - 698.98' to concrete monument, (7) N28°-19'-00"E - 839.70' to a concrete monument, (8) N28°-26'-05"E - 182.50' to an iron pin, said iron pin being the southwest corner of the property owned by the BOC Group, Inc. (Deed recorded in the Cabarrus County Register of Deeds in Deed Book 2476 Page 13); thence with the property line of The BOC Group, Inc. property the following (2) courses and distances (1) N28°-43'-57"E - 21.15' to an iron pipe, (2) N30°-08'-05"E - 1,107.12' to an iron pin, said iron pin being the southwest corner of the property owned by Midland Industrial Park (Deed recorded in the Cabarrus County Register of Deeds in Deed Book 1758 Page 235); thence with the property line of Midland Industrial Park N30°-08'-05"E - 498.50' to a railroad spike in the centerline of NC State Road #1119 (Wallace Road), said railroad spike being a point in the southern property line of McGee Brothers, Inc., (Deed recorded in the Cabarrus County Register of Deeds in Deed Book 2097 Page 237) thence with the McGee Brothers, Inc. Property line and the centerline of Wallace Road S74°-55'-16"W - 28.98' to a nail and cap in the centerline of Wallace Road, said nail and cap being the southeast corner of the property owned by McGee Brothers, Inc. (Deed recorded in Cabarrus County Register of Deeds in Deed Book 1845 Page 30) thence with the property line of McGee Brothers, Inc. the following (2) courses and distances (1) S75°-55'-53"W - 116.87' to a nail and cap in the centerline of Wallace Road, (2) N01°-59'-43"W - 580.41' to an iron, said iron being the southwest corner of the property owned by McGee Brothers, Inc. (Deed recorded in Cabarrus County Register of Deeds in Deed Book 1870 Page 281) thence with the following (2) courses and distances (1) N01°-59'-43"W - 907.00' to an iron, (2) N01°-59'-43"W - 569.70' to an iron, said iron being a corner in the southern property line of the property owned by McGee Brothers, Inc. (Deed recorded in Cabarrus County Register of Deeds in Deed Book 1870 Page 277) thence with the property line of McGee Brothers, Inc. the following (4) courses and distances (1) S82°-37'-48"W - 537.64' to an iron pin, (2) N64°-33'-35"W - 261.87' to an iron Pipe, (3) N62°-37'-54"E - 332.08' to an iron pipe, (4) N49°-08'-49"W - 526.15' to a pk nail in the centerline of the Norfolk Southern Railroad, said pk being located 930.00 feet west of Mile Post 369 as measured along said Railroad centerline and being a corner of the property owned by Midland Industrial Park (Deed recorded in the Cabarrus County Register of Deeds in Deed Book 498 Page 7) thence with the property line of Midland Industrial Park the following (6) courses and distances (1) N49°-08'-49"W - 169.61' to an iron pin, (2) N32°E - 1254' to a stone, (3) N22°E 1683' to a large Black Oak, (4) S58°E - 511.5' to a stone, (5) S30°W - 66' to a stone, (6) S33°E - 1864' to an iron stake, said iron stake being a corner of the property owned by Midland Industrial Park (Deed recorded in the Cabarrus County Register of Deeds in Deed Book 1877 Page 245) thence with the property line of Midland Industrial Park the following (3) courses and distances (1) N51°-38'E - 427.3' to an iron stake on the south bank of the north fork of Muddy Creek,

(2) S72°-28'E - 360.2' to an iron stake located 25" north from the channel of Muddy Creek, (3) S21°-52'W - 272.8" to an axle on the bank of Muddy Creek, said axle being a corner of the property owned by Midland Industrial Park (Deed recorded in the Cabarrus County Register of Deeds in Deed Book 563 Page 52) thence with the property line of Midland Industrial Park the following (3) courses and distances (1) S73°-14'-10"E - 1245.10' to an iron pin, (2) S19°-31'-28"W - 247.88' to a pk nail in the centerline of a paved drive, (3) N73°-15'-32"W - 637.28' to a point in the centerline of Muddy Creek (passing an iron pin at 622.51'), said point being a corner of the property owned by Midland Industrial Park (Deed recorded in the Cabarrus County Register of Deeds in Deed Book 1877 Page 245) thence down the centerline of Muddy Creek and the property line of Midland Industrial Park the following (11) courses and distances (1) S07°-56'-54"E - 85.40' to a point, (2) S11°-54'-39"E - 54.25' to a point, (3) S19°-40'-09"E - 59.15' to a point, (4) S38°-30'-32"E - 105.00' to a point, (5) S01°-50'-11"W - 67.10' to a point, (6) S07°-27'-46"E - 133.88' to a point, (7) S01°-14'-09"E - 97.95' to a point, (8) S25°-18'-49"W - 129.28' to a point, (9) S08°-39'-17"W - 60.00' to a point, (10) S11°-23'- 11"W - 187.54' to a point, (11) S39°-54'-47"E - 75.37' to a pk nail in the centerline of the Norfolk Southern Railway track and the centerline of Muddy Creek, said pk nail being a corner of the property owned by Midland Industrial Park (Deed recorded in the Cabarrus County Register of Deeds in Deed Book 531 Page 338) thence down the centerline of Muddy Creek and with the property line of the Midland Industrial Park to the intersection of the centerline of US Highway #601; thence with the centerline of US Highway #601 to the point of beginning, containing 608.63 acres plus or minus.

Tract 2:

Lying and being in Number Ten (10) Township, Cabarrus County, North Carolina, and adjoining the property of Homer J. Wallace, Marvin Widenhouse and Edward F. Wallace, and being a part of the J.F. Wallace Estate, and described as follows:

BEGINNING at an iron stake near the south edge of a County Road leading to U.S. Highway No. 601, a corner of Homer J. Wallace in the line of Edward F. Wallace (said iron stake being S. 80-40 W. 197.0 feet from an iron stake, a corner of R.A. Brooks, Homer J. Wallace and Edward F. Wallace), and running thence with the line of Homer J. Wallace, N. 0-26 W. 2090.4 feet to an iron stake; thence S. 77-43 W. 42.0 feet to a stone, an old corner of Marvin Widenhouse; thence with the line of Marvin Widenhouse, S. 84-29 W. 365.3 feet to an iron stake, a new corner; thence a new line, S. 0-26 E. (passing an iron stake at 2077.3 feet) 2112.3 feet to an iron stake in the south edge of the County Road and in the line of Edward F. Wallace; thence with his line, N. 80-40 E. 407.0 feet to the BEGINNING, containing 19.45 acres, more or less, but EXCEPTING OUT OF SAID TRACT, a three (3) acre tract conveyed in 1985 from the Grantor to Loni Garmon Marshall and husband Robert Alan Marshall."

**SECTION 2.1.** Section 4 of S.L. 2002-115 reads as rewritten:

**"SECTION 4.** Sections 1 through 3 of this act applies to documents filed with the Cabarrus County and Mecklenburg ~~Cabarrus, Durham, Harnett, Mecklenburg, Moore, New Hanover, and Randolph~~ County Registers of Deeds only."

**SECTION 3.** Section 1 of this act is effective when it becomes law and expires June 30, 2005. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 18<sup>th</sup> day of July, 2003.

Became law on the date it was ratified.

## H.B. 313

## Session Law 2003-327

## AN ACT TO CONSOLIDATE AND REVISE THE CHARTER OF THE CITY OF ROCKY MOUNT.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** The Charter of the City of Rocky Mount is revised and consolidated to read as follows:

"CHARTER OF THE CITY OF ROCKY MOUNT.

"CHAPTER I.

"GENERAL PROVISIONS.

"Section 1. **Definitions.** As used in this Charter, the following words are hereby defined to mean as set forth, unless otherwise clearly required by the context:

- (a) City. The word "City" shall mean the City of Rocky Mount.
- (b) City Council. The words "City Council" shall mean the City Council of the City of Rocky Mount.

"CHAPTER II.

"ORGANIZATION AND POWERS.

"ARTICLE I. CITY BOUNDARIES.

"Section 2. **Existing City Boundaries.** The boundaries of the City shall be those existing at the time of the effective date of this Charter until modified in accordance with law.

"Section 3. **Wards.** The City shall be divided into seven single-member electoral districts (referred to in this Charter as "wards"), each ward representing the same number of persons as nearly as possible. The City Council shall have the authority to revise the ward boundaries for the purposes of:

- (1) Accounting for territory annexed to or excluded from the City; and
- (2) Correcting population imbalances between the wards shown by a new federal census or caused by exclusions or annexations.

Changes in the ward boundaries shall be made by a five-sevenths vote of all the members of the City Council.

"ARTICLE II. CORPORATE POWERS.

"Section 10. **General Rights and Powers.** The inhabitants of the City are a body corporate and politic under the name City of Rocky Mount. The City has all of the powers, duties, rights, privileges, and immunities conferred and imposed on cities by the Constitution of North Carolina and the General Statutes of North Carolina. In addition to the powers conferred as stated above, the City shall possess the following powers and authority:

- (1) To regulate or prohibit the sale, use, and storage of gunpowder, dynamite, gasoline, naphtha, and all other dangerous, explosive or combustible substances within the corporate limits of the City, or within one mile thereof; to regulate or prohibit the discharge of firearms or the firing or setting off of fireworks or other explosives within such corporate limits or within one mile thereof.
- (2) To regulate or prohibit all sports, theatrical exhibitions, agricultural or other fairs, circuses, tent revivals, and other public performances and exhibitions within the corporate limits of the City.

- (3) To regulate public ways as follows: No person (natural or corporate) or combination or association of any such persons shall use the public streets, street rights-of-way, or alleys of the City for nonstreet or nonvehicular purposes, except upon the grant of a franchise, license, or easement by the City Council.
- (4) To promote the right of gainful employment, industrial and commercial opportunities, and general welfare of the inhabitants of the City, either directly or through such instrumentalities or agencies as exist or may exist (including the City of Rocky Mount Business Development Authority) for the public purpose of alleviating unemployment with its resulting spread of indigence and economic stagnation, by fostering and promoting business and industry, and developing commerce and trade, and inducing the location of manufacturing, industrial and commercial enterprises in or about the City by advertising, establishing industrial parks, extending electric, natural gas, and water and sewer lines, and by acquiring real and personal property, owning, improving, equipping, and maintaining the same, and selling, leasing, exchanging, and conveying such property in furtherance of any such purposes.
- (5) To regulate or prohibit junkyards and other places where junked automobiles, scrap metal, and other junk are dismantled or stored within the corporate limits of the City or within two miles thereof.
- (6) To regulate or prohibit boxing and wrestling matches or exhibitions.
- (7) To do any and all things as are deemed by the City Council necessary and requisite to establish, promote, advance, and maintain the general welfare, culture, and economy of the City, its environs and inhabitants.
- (8) To regulate and control by ordinance the use of all lands owned by the City and any waters covering such lands either within or without the corporate limits, including, but not limited to, use by the public of any body of water covering lands owned by the City, wherever the same may be located.

"Section 11. **Form of Government.** The City shall operate under the council-manager form of government as provided in G.S. 160A-147, et seq.

"ARTICLE III. AMENDMENTS.

"Section 21. **How Charter Amended.** The Charter shall be amended only by an act of the General Assembly of North Carolina or as otherwise provided by law.

"CHAPTER III.

"GOVERNING BODY.

"ARTICLE I. CITY COUNCIL.

"Section 31. **Composition.** The City Council shall consist of seven members. One Council member shall be apportioned to each of the respective wards of the City. The qualified voters of each ward shall elect a Council member for the seat apportioned to that ward.

"Section 32. **City Council Members; Terms; Qualifications; Vacancies.**

(a) **Terms of Office.** Council members shall serve staggered terms of four years and until their successors are duly elected and qualified. The terms of the Council members in office on the effective date of this Charter shall not be affected by the adoption of this Charter.



(b) **Qualifications.** No person shall be eligible to file for, or be elected to, the City Council, or to serve thereon, unless such person is a qualified voter, 21 years of age, a resident of the City and of the ward from which he seeks to be elected, and has not been disqualified as provided in the Constitution of North Carolina.

(c) **Change of Residence.** If any elected Council member shall cease to reside in the ward from which elected, such Council member shall thereafter be disqualified from serving as a Council member from such ward, and the City Council shall name a successor; however, the provisions of this subsection shall not apply in the event of changes in the ward boundaries. Any Council member who becomes a resident of a different ward as a result of a relocation of boundaries shall continue to represent the ward from which elected until the expiration of the term for which he was elected.

**"Section 33. Organization, Powers, and Procedures of City Council Members.**

(a) **Oath.** Any Council member-elect who shall not be present at the organizational meeting of the City Council may take the oath of office at any time thereafter.

(b) **Other Powers and Procedures.** Except as otherwise specifically provided by this Charter, the City Council shall have authority to adopt rules of procedure and generally regulate the manner and method of the exercise of its powers. All meetings shall be held within the City of Rocky Mount, except in case of an emergency. If the City Council deems it desirable to hold a joint meeting with the governing body of another municipality or political subdivision of the State of North Carolina, the City Council may at its election, meet with the other governing body at a designated place, within the area subject to the jurisdiction of the other governing body.

**"Section 34. Quorum, Votes, Attendance of Council Members.**

(a) **Quorum; Attendance.** A majority of the members elected to the City Council shall constitute a quorum to do business, but a less number may adjourn from time to time and compel the attendance of absent members by ordering them to be taken into custody.

(b) **Ordinances.** All ordinances offered for adoption shall be in writing, and no ordinance shall be passed finally on the date on which it is introduced unless by a vote of five-sevenths of the entire membership of the City Council or the unanimous consent of those present whenever there are less than five-sevenths of the membership present.

(c) **Votes.** All final votes of the City Council involving the making of assessments or levying of taxes, and all votes where requested by a Council member, shall be by roll call. The Mayor shall announce the result of each vote of the Council.

**"Section 35. Ordinances, Rules and Regulations.** In addition to the other powers conferred upon it by this Charter, the City Council may adopt and provide for the execution of such ordinances, rules and regulations not inconsistent with law, as may be necessary or appropriate for the preservation and promotion of the comfort, culture, economy, convenience, good order, better government, and general welfare of the City and its inhabitants.

**"Section 36. Removal of Council Members.** The City Council shall have the power on the vote of five-sevenths of its members to remove any one of its members for misfeasance, malfeasance, or nonfeasance of office, after a hearing of the matter before the City Council, at which time the subject of such hearing may be present and represented by counsel. Notice of such hearing shall be served on the subject thereof at least two weeks in advance of the hearing in person, if possible, and if not possible, by publication.

## "ARTICLE II. MAYOR.

**"Section 61. Qualifications and Term of Office.**

(a) **Term of Office.** The Mayor shall serve a term of four years and until a successor is duly elected and qualified. The term of the Mayor in office on the effective date of this Charter shall not be affected by the adoption of this Charter.

(b) **Qualifications.** No person shall be eligible to be elected Mayor, or to serve as Mayor, unless such person is a qualified voter, 21 years of age, a resident of the City, and has not been disqualified as provided in the Constitution of North Carolina.

## "ARTICLE III. CITY MANAGER.

**"Section 81. Appointment; Duties; Removal.**

(a) **Appointment; Removal.** The City Council shall appoint the City Manager, who shall be the administrative head of the City government and shall serve at the pleasure of the Council. In the event of removal, the City Manager may demand and shall be entitled to a public hearing thereon before the City Council prior to the date on which his final removal shall take effect and may there be represented by counsel; but the decision of the Council shall be final, and pending such hearing, the Council may suspend the City Manager from duty.

(b) **Administrative Service.** Except for the purpose of inquiry, the City Council and its members shall deal with the administrative service of the City through the City Manager. No member of the City Council shall give orders to or attempt to influence the action of any subordinate of the City Manager either publicly or privately. Where this Charter or any ordinance or statute gives to the City Manager the power to appoint or to employ persons in the administrative service of the City, neither the City Council nor any of its members shall attempt to in any manner influence the City Manager in the appointment or employment of any such person or persons. The City Manager shall have the power to suspend and dismiss any person appointed, and such action in every case shall be final.

(c) **General Authority and Duties.** The City Manager shall, except when clearly inconsistent with the provisions of this Charter, exercise supervision and control over all departments and divisions of the City. The City Manager shall keep the City Council at all times advised as to the conditions and efficiency of the various departments of the City under said City Manager's direction and control and of the needs and conditions of the City. The City Manager shall perform such other duties as may be prescribed by this Charter or be required by ordinance or resolution of the City Council.

## "ARTICLE IV. CITY ATTORNEY.

**"Section 90. Appointment.** The City Council shall appoint an attorney or firm of attorneys to serve as City Attorney. The City Attorney shall be the City's legal advisor and shall hold office at the pleasure of the City Council.

**"Section 91. Other Attorneys.** The City Council or City Manager may employ such other attorneys as they deem advisable.

## "ARTICLE V. CITY CLERK.

**"Section 100. Appointment; Powers and Duties.** The City Council shall appoint a City Clerk who shall hold office at the pleasure of the City Council. The City Clerk shall be the custodian of all records, documents, papers, and other articles committed to the office and shall surrender the same to any successor. The City Clerk shall be the custodian of the common seal of the City and shall attest the execution of and affix the common seal to all legal documents executed by the Mayor in behalf of the City and shall perform any other duties as may be prescribed by law or assigned by the Council.

## "ARTICLE VI. CITY TREASURER.

"Section 110. **Appointment; Powers and Duties.** The City Council shall appoint from its membership a City Treasurer who shall hold office at the pleasure of the Council. All notes, bonds, or other evidences of indebtedness of the City shall bear the City Treasurer's signature, which, when authorized by the City Treasurer in writing, may also be by facsimile signatures.

## "CHAPTER IV.

## "POLICE DEPARTMENT.

"Section 140. **Appointment, Powers and Duties of Chief of Police and Police Officers.**

(a) Chief. The City Manager shall appoint the Chief of Police. The Chief of Police shall have immediate direction and control of the Police Department, subject to the supervision of the City Manager, and to such rules, regulations, and orders as the City Manager may prescribe.

(b) General Powers. The Chief of Police and each member of the police force shall have, for the purpose of enforcing City ordinances and regulations, or preserving the peace of the City, and of suppressing disturbances, and apprehending offenders, the powers of peace officers vested in sheriffs and constables.

(c) Public Peace. The Chief of Police and other police officers of the City shall have the power, and it shall be their duty, to suppress all breaches of the public peace, and all disturbances of the quiet and good order of the City, and they may, with or without warrant, arrest, anywhere within the corporate limits of the City, or within one mile thereof, any person charged with the violation of any ordinance of the City, or with any other offense whatsoever against the public peace, and the quiet and good order of the community.

(d) Other Duties. In addition to the foregoing, the Chief of Police and other police officers shall perform such other duties as may from time to time be prescribed by the City Manager not inconsistent with the Constitution and laws of the State of North Carolina and the provisions of this Charter.

"Section 141. **Police Emergency Lines.** The Chief of Police or other police officer in charge at the scene of a parade, accident, disturbance, crime scene, natural or artificial disaster, or emergency, or any large gathering of people shall have authority to provide barricades, ropes, signs, or other means of restraint, and it shall be unlawful for any person other than a law enforcement officer, firefighter, or other person having official business at the scene to cross such a line without express permission of the police officer at the scene.

## "CHAPTER V.

## "FIRE DEPARTMENT.

"Section 150. **Appointment, Powers and Duties of Fire Chief.**

(a) Appointment; General Authority. The City Manager shall appoint a Fire Chief. The Fire Chief shall have immediate direction and control of the Fire Department, subject to the supervision of the City Manager and to such rules, regulations, and orders as the City Manager may prescribe.

(b) Destroying Property at Fires. The Fire Chief, and in the Fire Chief's absence, any assistant, may order the blowing up, tearing down, or other destruction of any building when it is deemed necessary to stop the progress of a fire. No person shall be held liable, civilly or criminally, for acting in obedience to their orders, nor shall the Fire Chief or any assistant, the City, the Mayor, the City Manager, or the City Council

be held liable, civilly or criminally, for the giving of such orders or for damages to property ordered destroyed.

(c) Fire, etc., Emergency Lines. The Chief of Police or other police officer, or the Fire Chief or any assistant, in charge at the scene of a fire, accident, disturbance, natural or artificial disaster or emergency, or any large gathering of people, shall have authority to provide barricades, ropes, signs, or other means of restraint, and it shall be unlawful for any person other than a law enforcement officer, firefighter, or other person having official business at the scene to cross such a line without express permission of the person in charge at the scene.

(d) Other Duties. The Fire Chief and other firefighters shall perform such other duties in addition to those provided in this Charter as may be prescribed by law or City ordinances, or that may from time to time be prescribed by the City Manager.

"CHAPTER VI.

"AUXILIARY POLICE OFFICERS AND FIREFIGHTERS.

"Section 160. **Authorized.** The City Council may provide for the organization, recruiting, training, equipping, and appointing of auxiliary police officers and auxiliary firefighters for the City.

"Section 161. **Civil Liability.** The City shall be entitled to the same immunities with respect to the action of auxiliary police officers and auxiliary firefighters in the performance of their duties or training or otherwise, to which it is entitled with respect to the actions of regular City police officers and firefighters in the performance of their duties.

"CHAPTER VII.

"SPECIAL PROCEDURES AND REGULATIONS.

"ARTICLE I. EMINENT DOMAIN.

"Section 360. **Condemnation Procedure.**

(a) Generally. The City shall possess the power of eminent domain and may acquire, either by purchase, gift, or condemnation, any real estate, right of access, right-of-way, water right, privilege, easement, restrictive covenant, or any other interest in or relating to real estate, water or improvements, either within or without the City limits, for any lawful public use or purpose. In the exercise of the power of eminent domain, the City is hereby vested with all power and authority now or hereafter granted by the laws of North Carolina applicable to the City, and the City shall follow the procedures now or hereafter prescribed by such laws; provided that, notwithstanding the provisions of G.S. 160A-240.1 and G.S. 40A-1, in the exercise of its authority of eminent domain for the acquisition of property or any interest in property to be used for streets and highways; water supply and distribution systems; sewage collection and disposal systems; electric power generation, transmission and distribution systems; and gas storage, transmission, and distribution systems, the City is hereby authorized to use the procedure and authority prescribed in Article 9 of Chapter 136 of the General Statutes of North Carolina, as now or hereafter amended or recodified; provided further, that whenever the words "Department of Transportation" appear in such Article 9 they shall be deemed to include the "City of Rocky Mount," and whenever the words "Secretary of Transportation" appear in such Article 9 they shall be deemed to include the "City Manager of the City of Rocky Mount." The powers granted to the City in this Charter for the purpose of acquiring property by eminent domain shall be in addition to and supplementary to those powers granted in any other local act or in any other general statute, and in any case in which the provisions of Article 9 of Chapter 136 are in conflict with the provisions of any local act or any other provision of any general

statute, then the City Council may in its discretion proceed in accordance with the provision of such local act or other general statute, or, as an alternative method of procedure, in accordance with this Charter provision and Article 9 of Chapter 136.

(b) **Limitation.** Nothing in this section shall be construed to enlarge the power of the City to condemn property already devoted to public use.

"ARTICLE II. LOCAL IMPROVEMENTS.

"Section 380. **Authority to Make Local Improvements.** The City Council shall have authority to make the local improvements described in this Charter or otherwise permitted by law, and to assess the cost against benefited property. The procedure set forth in this Article shall not be exclusive, but shall be in addition to any other procedures provided by the General Statutes of North Carolina or other provisions of law.

"Section 381. **Separate Proceeding Not Required.** One or more local improvements may be ordered in a single proceeding, and assessments for one or more local improvements may be combined.

"Section 382. **Definitions.** Certain words and phrases will be used with the following meanings with reference to local improvements, unless some other meaning is plainly intended:

- (1) A "roadway" is the part of a street that is used, or to be used, for vehicular traffic.
- (2) A "sanitary sewer" is an underground conduit for the passage of wastewater and may include a pumping station and force main.
- (3) The word "sewer" includes both sanitary and storm sewers unless a contrary intention is shown.
- (4) A "sewer lateral" is an underground conduit connecting a residential or nonresidential property to a sanitary sewer main.
- (5) A "sidewalk" is the part of a street used, or to be used, for pedestrian traffic.
- (6) A "storm sewer" is a conduit above or below ground for the passage of storm water, and may include natural and constructed channels, swales, ditches, drainage-ways, ponds, pipes, inlets, catch basins, headwalls, pumping stations, and other physical works needed to control, convey or carry off storm water.
- (7) "Storm water" is rainfall or snowmelt that runs off the ground or impervious surfaces and drains into natural or manmade drainage-ways.
- (8) A "street" is the entire width between property lines of every way or place, of whatever nature, when any part thereof is dedicated or open to the use of the public as a matter or right for the purpose of vehicular or pedestrian traffic.
- (9) "Wastewater" is water containing solid and soluble wastes and other pollutants carried from dwellings, commercial buildings, industrial facilities, mobile sources, treatment facilities and institutions together with any groundwater, surface water and storm water that may be present that is collected for treatment at the wastewater treatment plant.
- (10) A "water main" is an underground conduit for the transmission of potable water to public and private hydrants for public and private use and consumption.

- (11) A "water service" is a pipe connecting a residential or nonresidential property to a water main and may include a meter and/or backflow prevention device.

"Section 383. **Improvements Described.** The City Council shall have authority to make the following local improvements:

- (1) Roadway paving improvements, which shall include the grading, regrading, paving, repaving, and widening of roadways, or the improvement thereof with any treatment designed to provide an improved wearing surface, with necessary drainage, storm sewer inlets, manholes, and catch basins and the construction or reconstruction of retaining walls made necessary by any change of grade incident to such improvement, and in any case where the improvement is made upon petition if the petition so requests, or in any case where the improvement is made without petition if the City Council so directs, it may include the construction or reconstruction of curbs, gutters, drains, and sidewalks.
- (2) Water main improvements, which shall include the following:
  - a. Laying or construction of water mains and, in cases where the property abutting such mains is divided into lots by map or plat which is either recorded in the office of the register of deeds of the county in which such land lies or is unrecorded but approved by the City of Rocky Mount Planning Board, such improvements may, where the City Council so directs, include a tap for each lot shown on such map or plat except in cases where a tap has been previously constructed to serve such lot from another main;
  - b. The relaying where necessary of parts of paved roadways and sidewalks torn up or damaged by the laying or construction of such mains;
  - c. In any case where the improvement is made upon petition and the petition so requests, or in any case where the improvement is made without petition and the Council so directs, the laying of water laterals.
- (3) Sanitary sewer improvements, which shall include the following:
  - a. Laying or construction of a sanitary sewer main and, in cases where the property abutting such mains is divided into lots by map or plat which is either recorded in the office of the register of deeds of the county in which such land lies or is unrecorded but approved by the City of Rocky Mount Planning Board, such improvements may, where the Council so directs, include a tap for each lot shown on such map or plat, except in cases where a tap has been previously constructed to serve such lot from another main;
  - b. The repairing where necessary of parts of paved roadways and sidewalks torn up or damaged by the laying or construction of such mains;

- c. In any case where the improvement is made upon petition and the petition so requests, or in any case where the improvement is made without petition and the Council so directs, the laying of sanitary sewer laterals.
- (4) Storm sewer improvements, which shall include the laying or construction of storm sewers, the relaying, where necessary, of parts of paved roadways and sidewalks torn up or damaged by the laying or construction of such sewers, and in any case where the improvement is made upon petition and the petition so requests, or in any case where the improvement is made without petition and the Council so directs, the laying of storm sewer laterals.
- (5) Sidewalk improvements, which shall include the grading, regrading, construction, reconstruction and repair of paved or other improved sidewalks, the construction or reconstruction of retaining walls made necessary by and incident to such improvements, and in any case where the improvement is made without petition if the Council so directs, it may include the construction or reconstruction of curbs, gutters, drains, and retaining walls and the construction or reconstruction of all such portions of driveways as in the judgment of the Council ought to be laid in the street area.
- (6) Grass plot improvements, which shall include the grading and planting of grass plots and medians in a street.

"Section 384. **Water and Sewer Mains Between Streets.** Whenever the City Council finds it in the public interest, water, sanitary sewer, or storm sewer mains, or all or any of these, may be constructed between streets rather than in a street and the cost of construction of such water or sewer mains and the laterals or storm sewer mains shall be assessed according to the street frontage in the same manner and to the same extent that it would be assessed if the improvements were constructed in a street; provided that the City shall provide the rights-of-way for construction and maintenance of such mains at its own expense without assessing the cost thereof.

"Section 385. **Assessment Against Property Abutting One Side of the Street.** Any proceeding may include making any one or more local improvements in or on a street or streets and for the assessment of the cost thereof wholly against the property abutting one side of such street or streets or otherwise against such abutting property as the City Council may determine in any of the following cases:

- (1) In any case where there is park land or unimproved land abutting one side, or a part of one side, of a street.
- (2) In any case where the land abutting one side, or a part of one side, of a street is of such a nature or is devoted to such a purpose that a special assessment against it cannot be made or, if made, would probably exceed the value of the land assessed.
- (3) In any case where the owners of all the property to be assessed agree thereto.

"Section 386. **The Petition; Certificate of Sufficiency.**

(a) Petition. Except as otherwise provided in subsection (b) of this section, the petition for any local improvements shall designate by a general description the improvement proposed and shall request that such proportion of the cost of each of such improvements as may be specified in the petition be specially assessed against the

property abutting on the street or part thereof in which or on which such improvements are proposed to be made. The petition shall be filed with the City Clerk.

(b) Assessments of Portions of Street. In any case where:

- (1) The improvement is to be made on one side of a street only, the petition shall request that the assessment be made only against the property abutting that side of the street whereon the improvement is to be made.
- (2) It is proposed to assess the cost of any local improvement covering the entire width of a street against the land abutting one side of the street only or against any lands less than all of those abutting the improved portion of the street, such petition shall designate the lands to be assessed.

(c) Signatures – Generally. Except as otherwise provided in subsection (d) of this section, the petition shall be signed by at least a majority in number of the owners, which majority must own at least a majority of all lineal feet of frontage of the lands abutting the street or streets or part of a street or streets proposed to be improved, excluding street intersections.

(d) Signatures – Portions of Streets. Any petition for the making of:

- (1) Local improvements on one side of a street only need be signed only by a majority in number of the owners of land abutting the side of the street whereon such improvements are to be made, which majority must at least own a majority of all the lineal feet of frontage of the lands abutting such side of the street, excluding street intersections.
- (2) Any improvements covering the entire width of a street and the assessment of the cost thereof against land abutting one side of the street only or against any lands less than all of those abutting the improved portion of the street shall be signed by all of the owners of the lands thus proposed to be assessed.

(e) Rules of Construction. For the purpose of:

- (1) The petition, all owners of an undivided interest in any land shall be deemed and treated as one person and such land shall be sufficiently signed for when the petition is signed by one of the owners of such undivided interest.
- (2) This section, the word "owner" shall be considered to include the owners of any life estate, of any estate by the entirety, or of the estate of inheritance and shall not include mortgagees, trustees of a naked trust, trustees under deeds of trust to secure the payment of money, lienholders, or persons having inchoate rights in the property.

(f) Sufficiency. Upon the filing of such petition, the City Clerk shall investigate the sufficiency of the petition and, if it is found to be sufficient, shall certify the same to the Council.

"Section 387. **When No Petition Shall be Necessary.** No petition shall be necessary for the following:

- (1) Any local improvement for which the City bears the entire cost without assessment.
- (2) In the cases set forth in subsections (3) through (8) of this section where in the judgment of the City Council the abutting property to be assessed will be benefited in an amount at least equal to such assessment.



- (3) Street paving improvements: When in the judgment of the City Council:
  - a. Any street or part of a street is unsafe; or
  - b. The improvement of a street or part of a street not more than three blocks in length is necessary to connect streets already paved; or
  - c. The improvement of a street or part of a street is necessary to connect a paved street, or portion thereof, within the City with a paved highway beyond the City limits; or
  - d. The improvement of a street or part of a street is necessary to provide a paved approach to a railroad or street grade separation or any bridge; or
  - e. Any street or part of a street should be widened; or
  - f. The improvement of a street or part of a street should be made in the public interest.
- (4) Water main improvements: When in the judgment of the City Council any street or part of a street, or any property within the City, is without adequate public water supply, and can be served, and water service should be provided in the public interest.
- (5) Sanitary sewer improvements: When in the judgment of the City Council any street or part of a street, or any property within the City, is without an adequate public sanitary sewer system and can be served, and sanitary sewer service should be provided in the public interest.
- (6) Storm sewer improvements: When in the judgment of the City Council any street or part of a street, or any property within the City, is without adequate storm sewer facilities, and can be served, and storm sewers should be provided in the public interest.
- (7) Sidewalk improvements: When in the judgment of the City Council any street or part of a street is without sidewalks and sidewalks should be provided in the public interest or that any existing sidewalk is unsafe and should be repaired.
- (8) Curb and gutter improvements: When in the judgment of the City Council any street or part of a street is without curb and gutter and curb and gutter should be provided in the public interest.
- (9) In any other case when, in the judgment of the City Council, the abutting property to be assessed will be improved in an amount at least equal to such assessment.

**"Section 388. Notice of Hearing.**

(a) Preparation; Contents. Upon the presentation of a sufficient petition for local improvements, or when it is proposed to make improvements authorized to be made without petition, a notice shall be prepared by the City Clerk containing substantially the following:

- (1) A statement that a sufficient petition has been filed for the making of the improvements or, if it is proposed to make the improvements without petition, a statement of the reasons proposed for the making thereof.
- (2) A brief description of the proposed improvements.
- (3) A statement of the proportion of the cost of the improvements to be assessed and the terms of payment.

- (4) A statement of the time and place of a public hearing on the proposed improvements.
- (5) A statement that all objections to the legality of the making of the proposed improvements shall be made in writing, signed in person or by attorney, and filed with the City Clerk at or before the time of the hearing and that any objections not so made will be waived.

(b) **Publication; Service.** The notice shall be published one time in a newspaper published in the City which is qualified to carry legal notices, or, if there is no such newspaper, the City Clerk shall cause to be posted in three public places in the City, the date of publication or posting to be not less than 10 days prior to the date fixed for the hearing. In addition, at least 10 days prior to the hearing, the City Clerk shall cause a copy of the notice to be mailed to the owners, as shown on the county tax records, of all property subject to assessment if the project should be undertaken. The certificate of the person designated to mail the notices that such notices were mailed shall be conclusive in the absence of fraud. The word "owners" as used in this section has the same meaning as in Section 386.

"Section 389. **Public Hearing.** At the time for the public hearing, or at some subsequent time to which such hearing shall be adjourned, the City Council shall consider any objections to the improvements made in compliance with Section 388(a)(5), together with objections to the policy or expediency of the making of the improvements, and the Council shall thereafter determine whether it will order the making of the improvements. Any objections to the making of the improvements not made in writing, signed in person or by attorney, and filed with the City Clerk at or before the time or adjourned time of the hearing shall be considered as waived. If any such objection shall be made and shall not be sustained by the Council, the adoption of the resolution ordering the making of the improvements shall be the final adjudication of the issues presented, unless within 10 days after the adoption of the resolution proper steps shall be taken in a court of competent jurisdiction to secure relief.

"Section 390. **Resolution Ordering Improvements; Publication.** After the public hearing, if the City Council determines to make the improvements proposed, it shall adopt a resolution that shall contain:

- (1) If the improvements are to be made by petition, a finding by the Council as to the sufficiency of the petition, which finding shall be final and conclusive.
- (2) If the improvements are to be made without petition, a finding by the Council of such facts as are required in order to authorize improvements without petition.
- (3) A general description of the improvements to be made and the designation of the street or streets or parts thereof where the work is to be done.
- (4) If the improvement directed to be made is the paving of a roadway or part thereof wherein a railroad company has tracks, a direction that such company pave that part of the street occupied by its tracks, the rails of the tracks, and 18 inches in width outside such tracks, with such material and in such manner as the City Council may prescribe, and that unless such paving is completed on or before a day specified in the resolution, the City Council will cause the same to be done. Where such railroad company shall occupy such street or streets under a franchise or contract which provides otherwise, such franchise or

contract shall not be affected by this section except insofar as it may be consistent with the provisions of such franchise or contract.

- (5) If the improvement directed to be made includes the construction of water mains, sanitary sewers, or storm sewers and, in order to provide the mains or sewers in the street or streets to be improved, it is necessary to extend them beyond the limits of the street or streets, the resolution shall contain a provision for the necessary extension of such mains or sewers and a further provision that the cost of such extension shall eventually be assessed against the lots or parcels of land abutting the street or streets in which such extensions are made but that assessments shall not be made until such time as the City Council shall thereafter determine by appropriate resolution.
- (6) If the improvement directed to be made is the paving of a roadway or part thereof, or the construction of sidewalks, the resolution may, but need not, contain a direction that the owner of each lot abutting the part of the street to be improved connect such lot with the water mains or sewer pipes, or any one or more thereof, located in the street adjacent to his premises.
- (7) A designation of the proportion of the cost of the improvements to be assessed against abutting property and of the number of equal annual installments in which assessments may be made.
- (8) The resolution after its passage shall be published at least once in some newspaper published in the City that is qualified to carry legal notices, or, if there is no such newspaper, the resolution shall be posted in three public places in the City for at least five days; except that in any case where the Council directs that the notice should be mailed instead of being published, the resolution ordering the improvements need not be either published or posted.

"Section 391. **Determination as to Cost of Improvements.** Upon completion of the improvements, the City Council shall ascertain the total cost. In addition to other items of cost, there may be included therein the cost of all necessary legal services, the amount of interest paid during construction, the amount of damages paid or to be paid for injury to property by reason of any change of grade or drainage, including court costs and other expenses incidental to the determination of damages, and the cost of retaining walls, sidewalks, or fences built or altered in lieu of cash payment for property damage, including the cost of moving or altering any building. The determination of the Council as to the total cost of any improvement shall be conclusive.

"Section 392. **Preliminary Assessment.**

(a) **Determination.** Having determined the total cost, the Council shall make a preliminary assessment. The preliminary assessment shall be advisory only and shall be subject to modification. Except as otherwise provided in subsection (b) of this section, the preliminary assessment shall be as follows:

- (1) **Roadway paving:** The total cost of any roadway paving improvement, excluding the cost incurred at street intersections, may be specially assessed against the lots and parcels of land abutting the street containing the roadway paved, according to the frontages thereon by an equal rate per foot of frontage, except that, where the petition so requested, the cost shall be assessed against the lands on one side of the street only or against such lands as were designated in the petition.

- (2) Water mains, sanitary sewers, and storm sewers: The cost of water mains, sanitary sewers, and storm sewers in such amount as is determined by the Council within its discretion but according to a predetermined policy may be assessed against the abutting property. Such cost may be assessed against the lots and parcels of land according to their respective frontages thereon by an equal rate per foot of such frontage. If the resolution ordered the construction of any pumping station, outfall, septic tank, or disposal plant, no part of the cost of the same shall be specially assessed except when an outfall tap is permitted. Nothing contained in this subsection shall be construed to limit the power of the Council to contract with any property owner or owners for the construction of any pumping station, outfall, septic tank, or disposal plant or for the construction of water mains or storm or sanitary sewers and for the assessment of the cost thereof according to the terms of such contract. The entire cost of each water and sewer lateral may be specially charged against the particular lot or parcel of land for or in connection with which it was constructed, except that the assessment shall be calculated as if the lateral were laid from the center of the street. The cost of installing storm sewers may, however, be assessed as part of the cost of roadway paving.
- (3) Sidewalks: The total cost of constructing or reconstructing sidewalks may be assessed against the lots and parcels of land abutting that side of the street upon which the improvements are made according to their respective frontages thereon by an equal rate per foot of such frontage, the lots within a block being deemed to abut upon a sidewalk although the latter extends beyond the lot to the curb line of an intersecting street. The total cost of constructing portions of driveways within the street area may be assessed against the lots for which they are constructed.
- (4) Grass plots: The entire cost of grading or otherwise improving or of planting the grass plots in any street or part thereof may be assessed against the lots and parcels of land abutting the street or part thereof where or whereon the improvements are made by an equal rate per front foot of such frontage; provided that this subsection shall be construed to mean that when a grass plot in any street is graded or planted or otherwise improved, the cost thereof may be assessed against all of the property abutting the side of the street within the block where such grass plot is located.

(b) Proportion of Cost. If the petition (or the resolution in those cases where the improvement was ordered made without petition) specified that there should be specially assessed against the abutting property a smaller proportion of the cost of any improvement than that set forth in subsection (a)(2) of this section, there shall be assessed against abutting property only the proportion of the cost as was specified in the petition (or in such resolution). No restriction or denial of access to an abutting street shall affect the levy or collection of any assessment for local improvements.

(c) State Property. The cost of paving, water, sewer, and sidewalk improvements upon, in, or to any portion of a right-of-way or any property owned by the State of North Carolina, or any agency or subdivision thereof, shall be assessed against the right-of-way or property and shall be paid by the State or any agency or subdivision thereof.

"Section 393. **Corner Lot Exemptions.** The City Council shall have authority to determine the amount and applicability of assessment exemptions for corner lots and to distinguish between different classifications of property uses. The exemptions for paving, sidewalk, storm sewer, water main, and sanitary sewer improvements shall be in accordance with the provisions of G.S. 160A-219. If the corner formed by two intersecting streets is rounded into a curve or is foreshortened for the purpose of providing sight distance or for any other purpose of construction, the frontage for assessment purposes shall be calculated to the midpoint of the curve or foreshortened corner.

"Section 394. **Preliminary Assessment Roll.** The City Council shall cause to be prepared a preliminary assessment roll on which shall be entered a brief description of each lot or parcel of land assessed, the amount assessed against each lot, the name or names of the owner or owners of each lot (as defined in Section 386) as far as the same can be ascertained; provided, that a map of the improvements on which is shown the frontage and location of each affected lot, together with the amount assessed against each lot and the name or names of the owner or owners thereof, as far as the same can be ascertained, shall be a sufficient assessment roll. If the resolution directed the making of more than one improvement, a single preliminary assessment roll for all the improvements authorized by such resolution shall be sufficient, but the cost of each improvement to each lot affected shall be shown separately. After the preliminary assessment roll has been completed, it shall be filed in the office of the City Clerk, and there shall be published in some newspaper published in the City which is qualified to carry legal notices, or, if there is no such newspaper, the City Clerk shall cause to be posted in three places in the City a notice of the completion of the assessment roll, setting forth a description in general terms of the improvements, the amount of each assessment, and stating the time fixed for the meeting of the Council for the hearing of objections to the special assessment, such meeting to be not earlier than 10 days after the first publication or from the date of posting of such notice. Any number of assessment rolls may be included in one notice. In addition, at least 10 days prior to the hearing, the City Clerk shall cause a copy of the notice to be mailed to the owners, as shown on the county tax records, of all property subject to assessment. The certificate of the person designated to mail the notices that such notices were mailed shall be conclusive in the absence of fraud.

"Section 395. **Hearing; Revision; Confirmation; Lien.** At the time appointed for that purpose or at some other time to which it may adjourn, the City Council shall hear objections to the preliminary assessment roll of all persons interested who may appear and offer proof in relation thereto. Then or thereafter, the City Council shall either annul or sustain, or modify in whole or in part, the assessment either by confirming the preliminary assessment against any or all lots or parcels described thereon, or by canceling, increasing or reducing the same, according to the special benefits which the City Council decides that each of the lots or parcels has received or will receive on account of the improvements, except that assessments against railroads because of contract or franchise obligations shall be in accordance with such obligations. If any property is omitted from the preliminary roll, the Council may place it on the roll and

levy the proper assessment. The Council may thereupon confirm the assessment roll, and assessments so confirmed shall be in proportion to the special benefits, except in the case of franchise obligations of railroads. Whenever the governing body shall confirm assessments for local improvements, the City Clerk shall enter on the Council minutes and on the assessment roll the date of confirmation, and from the time of confirmation, the assessments shall be a lien on the property assessed of the same nature and to the same extent as County and City taxes and shall be superior to all other liens and encumbrances. After the assessment roll is confirmed, a copy shall be delivered to the City Collector of Revenue.

"Section 396. **Appeal to Superior Court.** If the owner of, or any person interested in, any lot or parcel of land against which an assessment is made is dissatisfied with the amount of the assessment, such person or owner may, within 10 days after the confirmation of the assessment roll, give written notice to the Council that an appeal will be made to the superior court of the county in which such land is situated, in which case such owner or person shall, within 20 days after the confirmation of the assessment roll, serve on the Mayor a statement of facts upon which the appeal is based. The appeal shall be tried as other actions at law. The remedy provided in this section for any person dissatisfied with the amount of the assessment against any property of which such person is the owner, or in which such person is interested, shall be exclusive.

"Section 397. **Power to Correct Error in Assessment.** If it shall appear after confirmation of any assessment roll that an error has been made, the City Clerk shall cause to be published one time in some newspaper published in the City, or, if there is no such newspaper, the City Clerk shall cause to be posted at three public places in the City, a notice referring to the assessment roll in which the error was made, naming the owner or owners of the lot or parcel of land affected by the error, if the same can be ascertained, and naming the time and place fixed for a hearing by the Council for the correction of the error, such meeting not to be earlier than 10 days from the publication or from the date of the posting of the notice. In addition, at least 10 days prior to the hearing, the City Clerk shall cause a copy of the notices to be mailed to the owners, as shown on the county tax records of all property affected by the error. At the time fixed in the notice or at some subsequent time to which the Council may adjourn, the Council, after giving the owner or owners of the property affected and other persons interested therein an opportunity to be heard, may proceed to correct the error, and the assessment then made shall have the same force and effect as if it had originally been properly made. No notice and hearing shall be necessary if the correction does not increase an assessment against any property not owned by the City or if all of the property owners affected by the correction waive notice in writing.

"Section 398. **Reassessment.** The City Council shall have the power, when in its judgment there is any irregularity, omission, error, or lack of jurisdiction in any of the proceedings relating thereto, to set aside the whole of the local assessment made by it, and thereupon to make a reassessment. In such case there shall be included, as a part of the cost of the improvement involved, all interest paid or accrued on notes or certificates of indebtedness or bonds issued by the City to pay the expenses of such improvement. The proceeding shall, as far as practicable, be in all respects as in the case of original assessments, and the reassessment shall have the same force as if it had originally been properly made.

"Section 399. **Publication of Notice of Confirmation of Assessment Roll.** After the expiration of 20 days from the confirmation of the assessment roll, the City Clerk shall cause to be published one time in some newspaper published in the City which is

qualified to carry legal notices or, if there is no such newspaper, shall cause to be posted at three public places in the City a notice of confirmation of the assessment roll and that assessments may be paid at any time before the expiration of 30 days from the date of publication or posting of the notice, without interest from the date of confirmation of the assessment roll, but that if such assessment is not paid in full within such time, all installments thereof shall bear interest at the rate provided by law from the date of confirmation of the assessment roll.

"Section 400. **Payment of Assessments in Cash or by Installments.** The property owner or railroad company assessed shall have the option of paying for improvements in cash or in not less than two, nor more than five, equal annual installments as may have been determined in the resolution ordering the improvement. If paid in installments, installments shall bear interest from the date of confirmation of the assessment roll at the rate provided by law. If any assessment is not paid in cash, the first installment, with interest, shall become due and payable 30 days after the publication or posting of the notice of confirmation, and one subsequent installment with interest shall be due and payable on the same day of the month in each successive year until the assessment is paid in full; provided, however, that if the City Council shall so direct, installments shall become due and payable on the same date when property taxes of the City are due and payable. If any installment with interest is not paid when due, it shall be subject to the same penalties as are prescribed by law for unpaid taxes, in addition to the interest herein provided for. The whole assessment may be paid at any time by the payment of the full amount due with accrued interest.

"Section 401. **Enforcement of Payment of Assessments.** Upon the failure of any property owner to pay any installment when due and payable, all of the installments remaining unpaid shall immediately become due and payable, and the property and rights-of-way may be sold by the City under the same rules and regulations, rights of redemption, and savings as are prescribed by law for the sale of land for unpaid taxes. Unpaid assessments, interest, and penalties owed by railroad companies and the State of North Carolina, its agencies, or subdivisions may be collected by writs of mandamus issued by the superior court of the county in which such land is situated. Collection of assessments with interest and penalties may also be made by the City by proceedings to foreclose the lien of assessments as a lien for mortgages is or may be foreclosed under the laws of the State, and it shall be lawful to join in any bill for foreclosure any one or more lots or parcels of land by whomsoever owned, if assessed for an improvement ordered by the same resolution, after default in the payment of any installments. The payment of such installment, together with interest and penalties due thereon, before the lot or parcel of land, against which the same is a lien, is sold or such lien is foreclosed shall bar the right of the City to sell the land or to foreclose the lien by reason of default.

"Section 402. **Assessment of Cost of Water Main, Sanitary Sewer, and Storm Sewer Extensions.** If the resolution ordering the making of any improvement or improvements included a provision for any necessary extension of a water main, sanitary sewer, or storm sewer beyond the limit of a street or streets, at such time after the completion of such extension or extensions as, in the judgment of the City Council, circumstances justify the assessment of the cost thereof, the City Council shall cause a preliminary assessment to be made and the procedure thereafter to be followed with respect to such assessment, and the force and effect thereof shall be as already prescribed for other assessments.

"Section 403. **Apportionment of Assessments.** In any case where one or more special assessments have been made and property has been or is about to be subdivided,

and it is desirable that the assessments be apportioned among the subdivisions of such property, the Council may, upon application by the owner or owners, apportion the assessments among the subdivisions. Thereafter, each subdivision shall be relieved of any part of the original assessment except the part apportioned to the subdivision, and the part of the original assessment apportioned to any subdivision shall be of the same force and effect as the original assessment.

"Section 404. **Change of Ownership.** No change of ownership of any property or interest therein after the passage of a resolution ordering the making of a local improvement shall affect subsequent proceedings, and the improvement may be completed and assessment made as if there had been no change in ownership.

"Section 405. **Lands Subject to Assessment.** No lands in the City, including railroad company lands and rights-of-way and property of the State of North Carolina, its agencies or subdivisions, shall be exempt from special assessments, except lands belonging to the United States which are exempt under provisions of federal statutes, and the officers, boards of directors, trustees, or other governing bodies of all incorporated or unincorporated bodies in whom is vested the right to hold and dispose of real property shall have the right by authority duly given to sign the petition for any local improvements.

"Section 406. **Proceedings In Rem.** All proceedings for special assessments shall be proceedings in rem, and no mistake or omission as to the name of any owner or person interested in any lot or parcel of land affected thereby shall be regarded as a substantial mistake or omission.

"Section 407. **Council May Hold Assessments in Abeyance.**

(a) Procedure. The owner of any abutting lot included on the preliminary assessment roll may file a petition with the City Clerk, not later than five days prior to the date fixed for the hearing, stating that the improvement will not be used by the owner and requesting that the assessment be held in abeyance. The City Council, after confirming such assessment, may, if it determines that the improvement will not be used, provide by resolution that the assessment be held in abeyance without the payment of interest thereon. The resolution shall require that the owner of the lot execute a statement, which shall be recorded in the office of the register of deeds of the county in which the property is located, acknowledging that an assessment has been confirmed against the property but is being held in abeyance until such time as the Council, upon not less than 10 days' prior written notice to the owner and following a public hearing, determines by resolution that the use, character, or ownership of the lot has changed. Upon such determination the assessment shall be paid in accordance with the terms set out in the confirming resolution. One or more of such assessments or any portion of a single assessment may be held in abeyance as provided in this section without holding all of such assessment or assessments in abeyance.

(b) Statutes of Limitations. All statutes of limitations are hereby suspended during the time that any assessment is held in abeyance without the payment of interest as provided in subsection (a) of this section. Such time shall not be a part of the time limit for the commencement of action for the enforcement of the payment of any such assessment, and such action may be brought at any time within 10 years from the date of the adoption of a resolution by the Council determining that the period of abeyance has ended, and the assessment shall be paid in accordance with the original resolution confirming it.

(c) Actions Barred. Nothing in this section shall be construed to revive any right of action that has heretofore been barred by the statute of limitation.



"Section 408. **Abutting Property Outside City Limits.** If any lots or parcels of land abutting any local improvements are located outside the City limits, the City Council may continue and delay the levy of assessments against such property until the City limits are extended to include such property, or the Council may provide that no water or sewer service connections shall be made to such property, pending the annexation thereof, until all assessments thereon are paid. Upon annexation, if not paid prior thereto, the City Council may levy assessments for such local improvements against such property, and the procedure shall be the same as provided in this Charter. Nothing contained in this section shall be construed to prohibit or restrict the City Council and a property owner from entering into an agreement for payments in lieu of assessments.

"Section 409. **Procedures Not Exclusive.** The procedures set forth in this article for making improvements shall not be exclusive but shall be in addition to the procedures for the same provided municipal corporations by the General Statutes of North Carolina as now existing or as may from time to time be amended or to any other procedure provided by law.

#### "ARTICLE III. FRANCHISES.

"Section 450. **Public Utility Franchises.** The City Council may grant franchises for the operation of public utilities within the City and for the use of the streets, street rights-of-way, and alleys of the City by such utilities for nonstreet and/or nonvehicular purposes for such terms and upon such conditions as the public welfare demands, and in its discretion may hold special elections on the question of granting franchises; provided, however:

- (1) The terms of such franchises shall not exceed 60 years, unless renewed at the end of the period granted.
- (2) All such franchises shall be revocable by the City Council for violation of their conditions by the franchisees if not corrected within a reasonable time after written notice from the City of such violation.
- (3) No franchise so granted may be transferred without the prior approval of the City Council.
- (4) Such franchises shall contain such reasonable provisions as the City Council in the exercise of its sound discretion deems proper, unless prohibited by law.

"Section 451. **Annexation and Expiration of Franchise.** In the event:

- (1) There is annexed to the City an area within which a utility service is being furnished; or
- (2) A public utility is operating within the City without previously having had a franchise granted to it by the City; or
- (3) A public utility is operating within the City under a franchise granted by the City and such franchise expires and is not renewed or a new franchise is not granted to the utility by the City, and the City is at such time furnishing the same utility service to its residents or is allowed by law to and has elected to begin furnishing the same to its residents; the City may, at its election:
  - a. Acquire the facilities and properties of the public utility located within the corporate limits of the City used or useful in providing particular service from such public utility by negotiation and the payment of just compensation; or

- b. Direct the public utility to remove such facilities and properties from the public streets, street rights-of-way, alleys, parks, or other rights-of-way belonging to the City, subject to the provisions of Section 452.

"Section 452. **Necessity of Franchise.** No public utility shall commence or continue to operate or do business in the City unless such utility shall have first had granted to it a franchise by the City under the provisions of this Charter, unless such public utility shall have in effect a valid and enforceable franchise granted by the City, in which event it shall not be necessary that it have granted to it a franchise under the provisions of this Charter until such previously granted franchise shall have expired; provided, however, if a public utility shall have been granted a franchise by the City and such franchise shall have expired, such public utility shall continue to operate under the terms of the expired franchise until:

- (1) A new franchise is granted to the same public utility; or
- (2) A franchise is granted to another public utility to furnish the same service; or
- (3) The City elects to and is in a position to render the same service and the same is allowed by law.

If the City elects to grant a franchise under subsection (1) or (2) of this section, but the City and the public utility after due negotiation are unable to agree upon the terms thereof, the matter shall be submitted by both parties and heard by the North Carolina Utilities Commission under the provisions of Article 4 of Chapter 62 of the North Carolina General Statutes as if the parties thereto had agreed to such submission in writing.

"Section 453. **Applicability.** The provisions of this article shall apply to electric, natural gas, water and sewer, telephone, pay television, pay television antennae, intracity buses, ambulances, and all other public utilities for which the City may grant franchises.

#### "ARTICLE IV. TRAFFIC REGULATION.

"Section 460. **Authority of City Council to Adopt Regulations.**

(a) Generally. Subject to the provisions of subsection (b) of this section, the City Council may adopt ordinances regulating the speeds of vehicles upon any City streets and may establish truck routes (or other required routes for limited classes or vehicles or traffic) applicable to any City streets. As used in this section, the term "City streets" includes all public highways, roads, and streets within the City limits, including numbered State highways, and highways, roads, and streets maintained, repaired, constructed, reconstructed, or widened in whole or in part with State funds.

(b) Certification. All ordinances concerning vehicle speeds, truck routes, or other required routes that apply to numbered State highways shall not become effective until certified to the North Carolina Department of Transportation by the City Clerk after adoption; provided, however, all such ordinances shall be prima facie deemed to have been so certified by the City Clerk upon submission of an affidavit to that effect.

(c) General Law. The authority granted in this section to the City Council shall be in addition to any authority conferred by general law upon the City Council or the City to regulate vehicles, traffic, or the use of City streets.

"Section 461. **Power to Regulate Ambulances and Wreckers.** The City Council may establish regulations governing the operation of ambulances, wreckers, and other motor vehicles used in connection with emergencies, disasters, or accidents, and may provide for the operation of an ambulance service or a wrecker service, or may enter

into a contract or contracts for the providing of such service by a private person or persons.

"Section 462. **Power to Regulate Obstruction of Alleys.** If, in the opinion of the City Council, a fire hazard is created by the obstruction of private alleys, the City Council may adopt regulations prohibiting the obstruction of private alleys, either by reason of the parking of motor vehicles or otherwise, but such regulations shall not be construed so as to restrict or limit the legal right of the owners of interests in a private alley to close the alley or to exercise other property rights therein.

"Section 463. **Location of Traffic Control Devices.** The City Council may authorize the City Manager to designate the location of official traffic control devices, upon a determination by the City Manager in writing certified to the City Council:

- (1) That their installation at the location in question is necessary in order to control traffic congestion or is in the interest of public safety; or
- (2) If such a device is to be moved or removed from a particular location, that the device is no longer required at such location for control of traffic congestion or in the interest of public safety.

An "official traffic control device" as used in this section is a sign, signal, stoplight, marking, or device, including a parking meter, which is intended to regulate vehicular or pedestrian traffic.

"Section 464. **Council May Accept Civil Fines in Lieu of Criminal Penalties for Traffic Violations.** Authority is hereby granted to the City Council, by ordinance, to accept civil fines in such amounts as may be deemed reasonable by the Council in lieu of satisfaction of the criminal penalties provided for the violation of traffic ordinances. The City shall pay no State taxes to the State of North Carolina for civil fines accepted in lieu or satisfaction of the criminal penalties referred to in this section. All civil penalties so collected shall be paid into the General Fund of the City.

"ARTICLE V. FISCAL AFFAIRS.

"Section 471. **Director of Finance.** The City Manager shall appoint a Director of Finance who shall have all powers and perform all duties provided by law.

"Section 472. **Collector of Revenue.** The City Manager shall appoint a Collector of Revenue who shall serve under the direction of the Director of Finance. All funds, including tax funds, owed to the City shall be collected by the Collector of Revenue and delivered to the Director of Finance.

"Section 473. **Bonds.** The City Manager, Director of Finance, and Collector of Revenue and such other persons handling funds of the City as the City Council deems advisable shall, before entering upon their respective offices, give bonds payable to the City in such amounts, according to such terms and with such sureties as the Council shall direct. The premiums for all such bonds shall be paid by the City.

"ARTICLE VI. ORDINANCE PROCEDURE.

"Section 484. **Power to Adopt Ordinances.** In addition to the powers and authorities granted municipal corporations by the Constitution and General Statutes of North Carolina relative to the adoption of ordinances having the effect of law, the City Council is hereby authorized and empowered to enact ordinances having the effect of law for the government of the City, to establish, promote, advance, and maintain the general welfare, culture, and economy of the City, its environs and inhabitants and to maintain the public peace, quiet, and good order, such ordinances to be enforceable within the City and for a distance of one mile in all directions of the City limits, and to repeal or modify the same. The City Council may further provide for the enforcement of such ordinances as provided by law.

"Section 485. **Code of Ordinances.**

(a) Generally. The City Council may adopt and provide for the publication and distribution of a codification of the City ordinances, to be known and cited as the "Code of the City of Rocky Mount." Each Code shall consist of two separate parts. The first part shall be known as "General Ordinances", and shall include all ordinances not designated "Technical Ordinances." The second part shall be known as "Technical Ordinances", and shall include all ordinances regarding the construction of buildings, the installation of plumbing, the installation of electric wiring, the installation of oil appliances or gas appliances and equipment, and other technical ordinances designated as such by the City Council.

(b) Official Copy. The official copy of the Code of the City of Rocky Mount, including all ordinances amending or supplementing the Code, shall be kept in the office of the City Clerk.

"Section 486. **Codification of Certain Zoning, Traffic and Related Ordinances by Appropriate Entries Upon Official Map Books.**

(a) Generally. Every ordinance concerning the matters enumerated in subsections (b) and (c) of this section may be codified by appropriate entries upon official map books to be retained permanently in the office of the City Clerk. Such entries shall be made by or under the direction of the City Manager. In conjunction with the introduction of every proposed ordinance concerning any of these matters, a map of the affected area shall be presented to the City Council.

(b) Zoning. The ordinances referred to in subsection (a) of this section include all ordinances establishing or amending boundaries of any district under zoning regulations.

(c) Vehicles. The ordinances referred to in subsection (a) of this section also include all ordinances:

- (1) Designating the location of official traffic control devices;
- (2) Designating areas or zones where restrictions, prohibitions, or other controls are applied with respect to parking, loading, bus stops, and taxicab stands;
- (3) Establishing speed limits;
- (4) Designating the location of through streets, stop intersections, yield right-of-way intersections, waiting lanes, one-way streets, and truck traffic routes; and
- (5) Establishing restrictions, prohibitions, or other controls upon vehicle turns at designated locations.

"Section 487. **Ordinances of Limited Application.** The City Council shall have the power to enact ordinances which shall be effective only in certain districts or sections of the City, or ordinances which may except from their operations any districts or sections of the City, if in the judgment of the City Council the condition in such sections or districts requires them to be included in or excepted from the provisions of any such ordinance.

"ARTICLE VII. PERSONNEL.

"Section 490. **Appointment and Removal of Department Heads and Employees; Compensation; Duty of Council.**

(a) Appointments; Removals. The City Manager, except as otherwise provided in this Charter, shall appoint and may suspend and remove all City employees and heads of departments and, with the approval of the City Council, may employ consultants of any kind when needed. The City Manager shall report to the City Council every

appointment and removal of a department head at the next City Council meeting following the appointment or removal.

(b) Compensation. All pay and compensation plans shall be approved by the City Council.

(c) Duty of Council. Neither the City Council nor any of its members shall take any part in the appointment or removal of department heads and employees in the administrative service of the City. The City Council and its members shall deal with the administrative service solely through the City Manager, and neither the City Council nor any member thereof shall give specific orders to any subordinates of the City Manager, be it publicly or privately.

"ARTICLE VIII. ULTIMATE STREET IMPROVEMENTS.

"Section 510. **Intent and Purpose.** It is the intent and purpose of this article to provide a method whereby the City of Rocky Mount may make provisions for the ultimate widening or extension, or both, of existing streets and highways and for the opening of new streets and highways by the establishment of proposed street lines, and for the gradual acquisition of the lands necessary for such improvements.

"Section 511. **Platting of Street Lines.** From and after the time of adoption of a major transportation plan by the City Council and the North Carolina Department of Transportation pursuant to provisions of G.S. 136-66.2, the City Council shall have the power to request, make, or cause to be made, from time to time, surveys for the exact location of the lines of proposed extended, widened, or narrowed streets and highways in the whole or any portion of the City and the area within one mile outside of its corporate boundaries. Personnel making such surveys are empowered to enter upon lands, make examinations or surveys, and place and maintain necessary monuments thereon, at reasonable times and with due care for the property. A plat or plats of the area or areas thus surveyed shall be prepared on which are indicated the locations of the lines recommended as the planned or mapped lines of proposed streets, street extensions, street widening, or street narrowing. The preparation of such plat or plats shall not in and of itself constitute or be deemed to constitute the opening or establishment of any street or the taking or acceptance of any land for street purposes.

"Section 512. **Establishment of Proposed Street Lines.** Following the preparation of such plats, the City Council shall officially adopt a map or maps of planned proposed streets and highways, widening, narrowing, or vacations, within the City and the area within one mile outside of its corporate boundaries. Before taking any such action, the City Council shall hold a public hearing thereon, notice of the time and place of which shall have been given once a week for two successive weeks in a newspaper published in the City or, if there is no newspaper published in the City, by posting such notice at four public places in the City and at four public places within any affected area lying outside of the corporate boundaries. Such notice shall be published or posted for the first time not less than 15 days prior to the date fixed for such hearing. Following adoption of such a map or maps, the City Council shall certify a copy to the Register of Deeds of Nash or Edgecombe County as the case may be, which copy shall be duly filed. The placing of any street or street line upon this official map or maps shall not in and of itself constitute or be deemed to constitute the opening or establishment of any street or the taking or acceptance of any land for street purposes.

"Section 513. **Right of City to Acquire Property Before Improvement.** From and after the time when any such map or maps shall have been adopted and certified to the Register of Deeds, it shall be unlawful to build upon any land within the lines of proposed streets shown thereon or to repair or otherwise improve any existing buildings

within such lines until the City Council shall have been given an opportunity to purchase or otherwise acquire such property for street purposes as provided by this Article. To that end, any person proposing to build upon such land or to make repairs or improvements to any existing buildings on such land shall, in writing, notify the City Council of the nature and estimated cost of such buildings, repairs, or improvements. The City Council shall then determine whether it will take the necessary steps to acquire such land prior to the construction of such building or the making of such repairs or improvements. If it fails, within 60 days from the receipt of such notice, to acquire, adopt a formal resolution directing an appropriate officer to acquire, or institute condemnation proceedings to acquire such property, the owner or other person giving notice may proceed to erect the building or to make the repair or improvements described in such notice.

"Section 514. **Owner Failing to Give Notice Cannot Recover for Value of Improvements.** If any person, firm, or corporation builds upon any land included with such proposed street lines, or repairs or otherwise improves that part of any existing building within such lines, without giving the City Council an opportunity to acquire such land free from such improvements, as provided in this Charter, the City Council shall not be required to pay for the value of such building, repairs, or improvements in any proceeding subsequently brought to acquire the land for the purpose shown on the officially adopted map.

"Section 515. **Failure of City to Act Does Not Limit Power Subsequently to Condemn.** The failure of the City Council to take action under section 513 within 60 days after notice shall not have the effect of limiting the right of the City Council at any subsequent time to condemn the same. But in such case, the owner shall be entitled to full compensation as now provided by law for the building, repair, or improvements made after the giving of notice required by Section 513.

"Section 516. **Powers Hereby Conferred Are Supplementary.** The powers granted in this Article to the City of Rocky Mount are supplementary to any powers heretofore or hereafter granted by general or special laws for the same or a similar purpose; and in any case where the provisions of this article conflict with or are different from the provisions of any other act, the City Council may in its discretion proceed in accordance with the provisions of either act."

**SECTION 2.** The purpose of this act is to revise the Charter of the City of Rocky Mount and to consolidate herein certain acts concerning the property, affairs, and government of the City.

**SECTION 3.** The following acts or portions of acts, having served the purposes for which they were enacted, or having been consolidated into this act, are hereby repealed:

- Chapter 938, Session Laws of 1963
- Chapter 545, Session Laws of 1965
- Chapter 1068, Session Laws of 1965
- Chapter 427, Session Laws of 1969
- Chapter 943, Session Laws of 1973
- Chapter 365, Session Laws of 1975
- Chapter 122, Session Laws of 1983
- Chapter 328, Session Laws of 1989
- S.L. 2001-330

**SECTION 4.** No provision of this act is intended, nor shall be construed, to affect in any way any rights or interests (whether public or private):

- (1) Now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provisions of law repealed by this act.
- (2) Derived from, or which might be sustained or preserved in reliance upon, action heretofore taken pursuant to or within the scope of any provisions of law repealed by this act.

**SECTION 5.** No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted, shall be revived by:

- (1) The repeal herein of any act repealing such law, or
- (2) Any provision of this act that disclaims an intention to repeal or affect enumerated or designated laws.

**SECTION 6.** All existing ordinances and resolutions of the City of Rocky Mount and all existing rules or regulations of departments or agencies of the City of Rocky Mount not inconsistent with the provisions of this act shall continue in full force and effect until repealed, modified, or amended.

**SECTION 7.** No action or proceeding of any nature (whether civil or criminal, judicial or administrative, or otherwise) pending at the effective date of this act by or against the City of Rocky Mount or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

**SECTION 8.** If any part of this act or the application thereof to any person or circumstance is held to be invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

**SECTION 9.** Whenever a reference is made in this act to a particular provision of the General Statutes and such provision is later amended, repealed, or superseded, the reference shall be deemed amended to refer to the amended General Statute or to the General Statute that most nearly corresponds to the statutory provision amended, repealed, or superseded.

**SECTION 10.** This act becomes effective January 1, 2004.

In the General Assembly read three times and ratified this the 18<sup>th</sup> day of July, 2003.

Became law on the date it was ratified.

## **H.B. 697**

## **Session Law 2003-328**

AN ACT TO ALLOW THE CITY OF TROY AND ITS REDEVELOPMENT COMMISSION TO ACQUIRE PROPERTY WITHIN A REDEVELOPMENT AREA USING THE "QUICK TAKE" PROCEDURE, TO REVISE AND CONSOLIDATE THE CHARTERS OF THE TOWNS OF PEACHLAND AND POLKTON, AND TO ALLOW THE CITY OF HICKORY TO USE WHEEL LOCKS ON ILLEGALLY PARKED VEHICLES.

*The General Assembly of North Carolina enacts:*

**SECTION 1.(a)** G.S. 40A-42(a)(1) reads as rewritten:

- "(1) When a local public condemnor is acquiring property by condemnation for a purpose set out in G.S. 40A-3(b)(1), (4) or (7), or when a city is acquiring property for a purpose set out in G.S. 160A-311(1), (2), (3),

(4), (6), or (7), or when a city or city redevelopment commission is acquiring property within a redevelopment area under a redevelopment plan adopted pursuant to Article 22 of Chapter 160A of the General Statutes, or when a county is acquiring property for a purpose set out in G.S. 153A-274(1), (2) or (3), or when a local board of education or any combination of local boards of education is acquiring property for any purpose set forth in G.S. 115C-517, or when a condemnor is acquiring property by condemnation as authorized by G.S. 40A-3(c)(8), (9), (10), (12), or (13), title to the property and the right to immediate possession shall vest pursuant to this subsection. Unless an action for injunctive relief has been initiated, title to the property specified in the complaint, together with the right to immediate possession thereof, shall vest in the condemnor upon the filing of the complaint and the making of the deposit in accordance with G.S. 40A-41."

**SECTION 1.(b)** This section applies to the Town of Troy and the Troy Redevelopment Commission when acquiring property for the "Smitherman Village" neighborhood only.

**SECTION 2.(a)** The Charter of the Town of Peachland is revised and consolidated to read as follows:

"CHARTER OF THE TOWN OF PEACHLAND.

"ARTICLE I. INCORPORATION, CORPORATE POWERS, AND BOUNDARIES.

"Section 1.1. **Incorporation.** The Town of Peachland and the inhabitants thereof shall continue to be a municipal body politic and corporate under the name of the 'Town of Peachland', hereinafter at times referred to as the 'Town'.

"Section 1.2. **Powers.** The Town shall have and may exercise all of the powers, duties, rights, privileges, and immunities conferred upon the Town of Peachland specifically by this Charter or upon municipal corporations by general law. The term 'general law' is employed herein as defined in G.S. 160A-1.

"Section 1.3. **Corporate Limits.** The corporate limits shall be those existing at the time of ratification of this Charter, as set forth on the official map of the Town and as they may be altered from time to time in accordance with law. An official map of the Town, showing the current municipal boundaries, shall be maintained permanently in the office of the Town Clerk and shall be available for public inspection. Upon alteration of the corporate limits pursuant to law, the appropriate changes to the official map shall be made and copies shall be filed in the office of the Secretary of State, the Anson County Register of Deeds, and the appropriate board of elections.

"ARTICLE II. GOVERNING BODY.

"Section 2.1. **Town Governing Body.** The Board of Commissioners, hereinafter referred to as the 'Board', and the Mayor shall be the governing body of the Town.

"Section 2.2. **Board of Commissioners; Composition; Terms of Office.** The Board shall be composed of five members, to be elected by all the qualified voters of the Town, for staggered terms of four years and until their successors are elected and qualified.

"Section 2.3. **Mayor; Term of Office; Duties.** The Mayor shall be elected by all the qualified voters of the Town for a term of four years and until a successor is elected and qualified. The Mayor shall be the official head of the Town government and shall preside at meetings of the Board. The Mayor shall have the right to vote only when



there is an equal division on any question or matter before the Board and shall exercise the powers and duties conferred by law or as directed by the Board.

"Section 2.4. **Mayor Pro Tempore.** In accordance with general law, the Board shall elect one of its members to act as Mayor Pro Tempore to perform the duties of the Mayor during his or her absence or disability.

"Section 2.5. **Meetings.** In accordance with general law, the Board shall establish a suitable time and place for its regular meetings. Special and emergency meetings may be held as provided by general law.

"Section 2.6. **Quorum; Voting.** Official actions of the Board and all votes shall be taken in accordance with the applicable provisions of general law, particularly G.S. 160A-75. The quorum provisions of G.S. 160A-74 shall apply.

"Section 2.7. **Compensation; Qualifications for Office; Vacancies.** The compensation and qualifications of the Mayor and Commissioners shall be in accordance with general law.

#### "ARTICLE III. ELECTIONS.

"Section 3.1. **Regular Municipal Elections.** Regular municipal elections shall be held in each odd-numbered year in accordance with the uniform municipal election laws of North Carolina. Elections shall be conducted on a nonpartisan basis and the results determined by a plurality as provided in G.S. 163-292.

"Section 3.2. **Election of Mayor.** At the regular municipal election in 2003, and quadrennially thereafter, a Mayor shall be elected to serve a term of four years.

"Section 3.3. **Election of Commissioners.** At the regular municipal election in 2003, and quadrennially thereafter, two Commissioners shall be elected to four-year terms. At the regular municipal election in 2005, and quadrennially thereafter, three Commissioners shall be elected to four-year terms.

"Section 3.4. **Special Elections and Referenda.** Special elections and referenda may be held only as provided by general law or applicable local acts of the General Assembly.

#### "ARTICLE IV. ORGANIZATION AND ADMINISTRATION.

"Section 4.1. **Form of Government.** The Town shall operate under the mayor-council form of government as provided in Part 3 of Article 7 of Chapter 160A of the General Statutes.

"Section 4.2. **Town Attorney.** The Board shall appoint a Town Attorney licensed to practice law in North Carolina. It shall be the duty of the Town Attorney to represent the Town, advise Town officials, and perform other duties required by law or as the Board may direct.

"Section 4.3. **Town Clerk.** The Board shall appoint a Town Clerk to keep a journal of the proceedings of the Board, to maintain official records and documents, to give notice of meetings, and to perform such other duties required by law or as the Board may direct.

"Section 4.4. **Tax Collector.** The Board shall appoint a Tax Collector to collect all taxes owed to the Town and perform those duties specified in G.S. 105-350 and such other duties as prescribed by law or assigned by the Board.

"Section 4.5. **Other Administrative Officers and Employees.** The Board may authorize other positions to be filled by appointment and may organize the Town government as deemed appropriate, subject to the requirements of general law."

**SECTION 2.(b)** The purpose of this section is to revise the Charter of the Town of Peachland and to consolidate herein certain acts concerning the property, affairs, and government of the Town.

**SECTION 2.(c)** The following acts or portions of acts, having served the purposes for which they were enacted, or having been consolidated into this act, are hereby repealed:

Chapter 197, Private Laws of 1895  
 Chapter 344, Private Laws of 1905  
 Chapter 43, Private Laws, Extra Session of 1908  
 Chapter 53, Private Laws, Extra Session of 1908  
 Chapter 110, Private Laws of 1919  
 Chapter 38, Private Laws of 1931  
 Chapter 431, Public-Local Laws of 1937  
 Chapter 766, Session Laws of 1947  
 Chapter 304, Session Laws of 1979.

**SECTION 2.(d)** No provision of this section is intended, nor shall be construed, to affect in any way any rights or interests (whether public or private):

- (1) Now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provisions of law repealed by this section.
- (2) Derived from, or which might be sustained or preserved in reliance upon, action heretofore taken pursuant to or within the scope of any provisions of law repealed by this section.

**SECTION 2.(e)** No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted, shall be revived by:

- (1) The repeal herein of any act repealing such law, or
- (2) Any provision of this section that disclaims an intention to repeal or affect enumerated or designated laws.

**SECTION 2.(f)** All existing ordinances and resolutions of the Town of Peachland and all existing rules or regulations of departments or agencies of the Town of Peachland not inconsistent with the provisions of this section shall continue in full force and effect until repealed, modified, or amended.

**SECTION 2.(g)** No action or proceeding of any nature (whether civil or criminal, judicial or administrative, or otherwise) pending at the effective date of this section by or against the Town of Peachland or any of its departments or agencies shall be abated or otherwise affected by the adoption of this section.

**SECTION 2.(h)** If any part of this section or the application thereof to any person or circumstance is held to be invalid, such invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid provision or application, and to this end the provisions of this section are declared to be severable.

**SECTION 2.(i)** Whenever a reference is made in this section to a particular provision of the General Statutes and such provision is later amended, repealed, or superceded, the reference shall be deemed amended to refer to the amended General Statute or to the General Statute that most nearly corresponds to the statutory provision amended, repealed, or superceded.

**SECTION 3.(a)** The Charter of the Town of Polkton is revised and consolidated to read as follows:

"CHARTER OF THE TOWN OF POLKTON.

"ARTICLE I. INCORPORATION, CORPORATE POWERS, AND BOUNDARIES.

"Section 1.1. **Incorporation.** The Town of Polkton and the inhabitants thereof shall continue to be a municipal body politic and corporate under the name of the 'Town of Polkton', hereinafter at times referred to as the 'Town'.

"Section 1.2. **Powers.** The Town shall have and may exercise all of the powers, duties, rights, privileges, and immunities conferred upon the Town of Polkton specifically by this Charter or upon municipal corporations by general law. The term 'general law' is employed herein as defined in G.S. 160A-1.

"Section 1.3. **Corporate Limits.** The corporate limits shall be those existing at the time of ratification of this Charter, as set forth on the official map of the Town and as they may be altered from time to time in accordance with law. An official map of the Town, showing the current municipal boundaries, shall be maintained permanently in the office of the Town Clerk and shall be available for public inspection. Upon alteration of the corporate limits pursuant to law, the appropriate changes to the official map shall be made and copies shall be filed in the office of the Secretary of State, the Anson County Register of Deeds, and the appropriate board of elections.

"ARTICLE II. GOVERNING BODY.

"Section 2.1. **Town Governing Body.** The Board of Commissioners, hereinafter referred to as the 'Board', and the Mayor shall be the governing body of the Town.

"Section 2.2. **Board of Commissioners; Composition; Terms of Office.** The Board shall be composed of five members, to be elected by all the qualified voters of the Town, for terms of two years and until their successors are elected and qualified.

"Section 2.3. **Mayor; Term of Office; Duties.** The Mayor shall be elected by all the qualified voters of the Town for a term of two years and until a successor is elected and qualified. The Mayor shall be the official head of the Town government and shall preside at meetings of the Board. The Mayor shall have the right to vote only when there is an equal division on any question or matter before the Board and shall exercise the powers and duties conferred by law or as directed by the Board.

"Section 2.4. **Mayor Pro Tempore.** In accordance with general law, the Board shall elect one of its members to act as Mayor Pro Tempore to perform the duties of the Mayor during his or her absence or disability.

"Section 2.5. **Meetings.** In accordance with general law, the Board shall establish a suitable time and place for its regular meetings. Special and emergency meetings may be held as provided by general law.

"Section 2.6. **Quorum; Voting.** Official actions of the Board and all votes shall be taken in accordance with the applicable provisions of general law, particularly G.S. 160A-75. The quorum provisions of G.S. 160A-74 shall apply.

"Section 2.7. **Compensation; Qualifications for Office; Vacancies.** The compensation and qualifications of the Mayor and Commissioners shall be in accordance with general law.

"ARTICLE III. ELECTIONS.

"Section 3.1. **Regular Municipal Elections.** Regular municipal elections shall be held in each odd-numbered year in accordance with the uniform municipal election laws of North Carolina. Elections shall be conducted on a nonpartisan basis and the results determined by a plurality as provided in G.S. 163-292.

"Section 3.2. **Election of Mayor.** At the regular municipal election in 2003, and biennially thereafter, a Mayor shall be elected to serve a term of two years.

"Section 3.3. **Election of Commissioners.** At the regular municipal election in 2003, and biennially thereafter, five Commissioners shall be elected to two-year terms.

"Section 3.4. Special Elections and Referenda. Special elections and referenda may be held only as provided by general law or applicable local acts of the General Assembly.

"ARTICLE IV. ORGANIZATION AND ADMINISTRATION.

"Section 4.1. **Form of Government.** The Town shall operate under the mayor-council form of government as provided in Part 3 of Article 7 of Chapter 160A of the General Statutes.

"Section 4.2. **Town Attorney.** The Board shall appoint a Town Attorney licensed to practice law in North Carolina. It shall be the duty of the Town Attorney to represent the Town, advise Town officials, and perform other duties required by law or as the Board may direct.

"Section 4.3. **Town Clerk.** The Board shall appoint a Town Clerk to keep a journal of the proceedings of the Board, to maintain official records and documents, to give notice of meetings, and to perform such other duties required by law or as the Board may direct.

"Section 4.4. **Tax Collector.** The Board shall appoint a Tax Collector to collect all taxes owed to the Town and perform those duties specified in G.S. 105-350 and such other duties as prescribed by law or assigned by the Board.

"Section 4.5. **Other Administrative Officers and Employees.** The Board may authorize other positions to be filled by appointment and may organize the Town government as deemed appropriate, subject to the requirements of general law."

**SECTION 3.(b)** The purpose of this section is to revise the Charter of the Town of Polkton and to consolidate herein certain acts concerning the property, affairs, and government of the Town.

**SECTION 3.(c)** The following acts or portions of acts, having served the purposes for which they were enacted, or having been consolidated into this act, are hereby repealed:

Chapter 936, Session Laws of 1969, other than Section 34.

**SECTION 3.(d)** No provision of this section is intended, nor shall be construed, to affect in any way any rights or interests (whether public or private):

- (1) Now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provisions of law repealed by this section.
- (2) Derived from, or which might be sustained or preserved in reliance upon, action heretofore taken pursuant to or within the scope of any provisions of law repealed by this section.

**SECTION 3.(e)** No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted, shall be revived by:

- (1) The repeal herein of any act repealing such law, or
- (2) Any provision of this section that disclaims an intention to repeal or affect enumerated or designated laws.

**SECTION 3.(f)** All existing ordinances and resolutions of the Town of Polkton and all existing rules or regulations of departments or agencies of the Town of Polkton not inconsistent with the provisions of this section shall continue in full force and effect until repealed, modified, or amended.

**SECTION 3.(g)** No action or proceeding of any nature (whether civil or criminal, judicial or administrative, or otherwise) pending at the effective date of this section by or against the Town of Polkton or any of its departments or agencies shall be abated or otherwise affected by the adoption of this section.

**SECTION 3.(h)** If any part of this section or the application thereof to any person or circumstance is held to be invalid, such invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid provision or application, and to this end the provisions of this section are declared to be severable.

**SECTION 3.(i)** Whenever a reference is made in this section to a particular provision of the General Statutes and such provision is later amended, repealed, or superceded, the reference shall be deemed amended to refer to the amended General Statute or to the General Statute that most nearly corresponds to the statutory provision amended, repealed, or superceded.

**SECTION 4.** Section 2 of Chapter 291 of the 1993 Session Laws, as amended by Chapter 381 of the 1995 Session Laws, S.L. 1997-218, S.L. 2002-127, and S.L. 2003-240, reads as rewritten:

"Sec. 2. This act applies to the Cities of Durham, Greensboro, Hickory, Lenoir, Monroe, Raleigh, Winston-Salem, and the Town of Yadkinville only. This act shall also apply to the City of Wilmington, but only as to the area in the central business district as defined in that City's zoning ordinance as of June 1, 1997."

**SECTION 5.** This act is effective when it becomes law, but Section 1 expires July 1, 2008.

In the General Assembly read three times and ratified this the 18<sup>th</sup> day of July, 2003.

Became law on the date it was ratified.

## H.B. 736

## Session Law 2003-329

AN ACT TO AUTHORIZE THE CITY OF DURHAM TO COLLECT A GENERAL MUNICIPAL VEHICLE TAX OF UP TO TEN DOLLARS ON VEHICLES RESIDENT IN THE CITY AND TO AUTHORIZE THE CITY OF DURHAM TO ENTER INTO A JOINT AGREEMENT WITH A PRIVATE UNIVERSITY TO EXTEND THE JURISDICTION OF THE CAMPUS LAW ENFORCEMENT AGENCY OF THE PRIVATE UNIVERSITY INTO THE JURISDICTION OF THE CITY OF DURHAM.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 20-97(b) reads as rewritten:

"(b) General Municipal Vehicle Tax. – Cities and towns may levy a tax of not more than ~~five dollars (\$5.00)~~ ten dollars (\$10.00) per year upon any vehicle resident in the city or town. The proceeds of the tax may be used for any lawful purpose."

**SECTION 2.** G.S. 116-40.5(b) reads as rewritten:

"(b) The Board of Trustees of any constituent institution of The University of North Carolina, or of any teaching hospital affiliated with but not part of any constituent institution of The University of North Carolina, or of a private university, having established a campus law enforcement agency pursuant to subsection (a) of this ~~section,~~ section or pursuant to the Chapter 74E of the General Statutes, may enter into joint agreements with the governing board of any municipality to extend the law enforcement authority of campus police officers into any or all of the municipality's jurisdiction and to determine the circumstances in which this extension of authority may be granted.

While acting in a law enforcement capacity within the municipality's jurisdiction under authority of this section, campus law enforcement officers shall have the same powers, rights, privileges, and immunities (including those related to the defense of civil actions and the payment of judgments) as the law enforcement officers of the municipality, in addition to those powers the officers normally possess."

**SECTION 3.** This act applies to the City of Durham only. Any funds generated by a tax of over five dollars (\$5.00) under Section 1 of this act shall be placed into a separate fund for public transportation within the City of Durham and the principal shall not be spent. The interest earned on those funds may be expended by the City of Durham solely for the purpose of public transportation.

**SECTION 4.** Section 1 of this act is effective when it becomes law and expires one year after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 18<sup>th</sup> day of July, 2003.

Became law on the date it was ratified.

### H.B. 440

### Session Law 2003-330

AN ACT AMENDING THE CHARTER OF THE TOWN OF WENTWORTH TO EXEMPT AGRICULTURAL LAND USES WITHIN THAT JURISDICTION FROM ZONING.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** The Charter of the Town of Wentworth, being Chapter 76 of the Private Laws of 1798, as amended by S.L. 1997-322, is amended by adding a new section to read:

"Sec. 5.2. **Zoning Exemption.** Notwithstanding any other provision of law, the Town may not regulate or restrict agricultural land uses under its zoning ordinance. For the purposes of this section, an 'agricultural land use' includes 'agricultural land' as defined in G.S. 105-277.2 and property used for 'bona fide farm purposes' as defined in G.S. 153A-340(b)(2). This exemption does not limit regulation under this section with respect to the use of farm property for nonfarm purposes."

**SECTION 2.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 19<sup>th</sup> day of July, 2003.

Became law on the date it was ratified.

### S.B. 293

### Session Law 2003-331

AN ACT TO AMEND THE LAW GOVERNING SALES REPRESENTATIVE COMMISSIONS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Article 27 of Chapter 66 of the General Statutes reads as rewritten:

"Article 27.

"Sales Representative Commissions.

**"§ 66-190. Definitions.**

The following definitions apply in this Article:

- (1) "Commission" means compensation accruing to a sales representative for payment by a principal, the rate of which is expressed as a percentage of the amount of ~~orders or sales~~ orders, sales, or profits or as a specified amount per order or per sale.
- (2) "Person" means an individual, corporation, limited liability company, partnership, unincorporated association, estate, ~~or trust~~, trust, or other entity.
- (3) "Principal" means a person ~~who does not have a permanent or fixed place of business in this State and who~~:
  - a. Manufactures, produces, imports, or distributes a tangible product for sale at wholesale; or service;
  - b. Contracts with a sales representative to solicit orders for the ~~product~~; product or service; and
  - c. Compensates the sales representative, in whole or in part, by commission.
- (4) "Sales representative" means a person who:
  - a. Contracts with a principal to solicit ~~wholesale orders~~; orders for products or services;
  - b. Is compensated, in whole or in part, by commission;
  - c. ~~Does not place orders or purchase for his own account or for resale~~; Is not a seller who complies with:
    1. G.S. 25A-39 and G.S. 25A-40; or
    2. Part 429 of 16 Code of Federal Regulations (January 1, 2003);
  - d. ~~Does not sell or take orders for the sale of products at retail~~; and
  - e. Is not an employee of the ~~principal~~; principal;
  - f. Does not sell or take orders for the sale of advertising services; and
  - g. Is not a person requiring a real estate broker's or sales agent's license under Chapter 93A of the General Statutes.
- (5) "Terminate" and "termination" mean the end of the business relationship between the sales representative and the principal, whether by agreement, by expiration of time, or by exercise of a right of termination of either party.

**"§ 66-190.1. Written contracts.**

The agreement or contract between a sales representative and a principal shall be in writing. The absence of a written agreement or contract shall not bar a cause of action by, or any remedy available to, a party.

**"§ 66-191. Payment of ~~commissions~~; commissions; termination.**

When a contract between a sales representative and a principal is terminated for any reason other than malfeasance on the part of the sales representative, the principal shall pay the sales representative all commissions ~~accrued under the contract to the sales representative within 45 days after the effective date of the termination~~. due under the contract within 30 days after the effective date of the termination and all commissions that become due after the effective date of termination within 15 days after they become due. If the principal does not make payment as required by this section, the sales representative shall make a written demand upon the principal, sent by certified mail,

for the commissions then due. The principal shall respond in writing to the demand within 15 days after the principal receives the written demand.

**"§ 66-192. Civil liability.**

(a) A principal who fails to comply with the provisions of ~~G.S. 66-191~~ G.S. 66-191 or is shown to have wrongfully revoked an offer of commission under G.S. 66-192.1 is liable to the sales representative in a civil action for (i) all amounts due the sales representative plus exemplary damages in an amount not to exceed two times the amount of commissions due the sales representative, (ii) attorney's fees actually and reasonably incurred by the sales representative in the action, and (iii) court costs.

(b) Where the court determines that an action brought by a sales representative against a principal under this Article is frivolous, the sales representative is liable to the principal for court costs and for attorney's fees actually and reasonably incurred by the principal in defending the action.

(c) A principal who is not a resident of this State who contracts with a sales representative to solicit orders in this State shall be subject to personal jurisdiction as provided in G.S. 1-75.4.

(d) Nothing in this Article shall invalidate or restrict any other or additional right or remedy available to a sales representative or preclude a sales representative from seeking to recover in one action on all claims against a principal.

**"§ 66-192.1. Revocable offers of commission; entitlement.**

If a principal makes a revocable offer of a commission to a sales representative, the sales representative is entitled to the commission agreed upon if:

- (1) The principal revokes the offer of commission;
- (2) The sales representative establishes that the revocation was for the purpose of avoiding payment of the commission;
- (3) The revocation occurs after the principal has obtained a written order for the principal's product or service because of the efforts of the sales representative; and
- (4) The principal's product or service that is the subject of the order is provided to and paid for by a customer.

**"§ 66-193. Contracts void.**

A provision in any contract between a sales representative and a principal purporting to waive any provision of this Article, whether by expressed waiver or by a contract subject to the laws of another state, is void."

**SECTION 2.** This act becomes effective October 1, 2003, and applies to causes of action accruing on or after that date.

In the General Assembly read three times and ratified this the 9<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 6:47 p.m. on the 20<sup>th</sup> day of July, 2003.

AN ACT TO ESTABLISH THE LAKE LURE MARINE COMMISSION.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Chapter 77 of the General Statutes is amended by adding a new Article to read:



"Article 7A."Lake Lure Marine Commission.**"§ 77-80. Definitions.**

For purposes of this Article:

- (1) "Board" means the Board of Commissioners of the Town of Lake Lure.
- (2) "Commission" means the Lake Lure Marine Commission or its governing board, as the case may be.
- (3) "Commissioner" means a member of the governing board of the Lake Lure Marine Commission.
- (4) Lake Lure Reservoir, known for purposes of this Article as "Lake Lure" or "the waters of Lake Lure", means the body of water along the Broad River in Rutherford County, impounded by the dam at Tumbling Shoals, and lying below the 995-foot contour line above sea level.
- (5) "Shoreline area" means the area submerged by the dam at Tumbling Shoals, lying below 955 feet above mean sea level of the normal full pond elevation of 992 feet above mean sea level, on Lake Lure.
- (6) "Wildlife Commission" means the North Carolina Wildlife Resources Commission.

**"§ 77-81. Creation of Commission authorized.**

The Board of Commissioners of the Town of Lake Lure may by ordinance create the Lake Lure Marine Commission. The Board shall hold a public hearing on the ordinance to create the Commission. The location of the public hearing shall be determined by the Boards and established by resolution. The Board shall cause notice of the hearing to be published once a week for two successive calendar weeks in a newspaper of general circulation in Rutherford County. The notice shall be published the first time not less than 10 days nor more than 25 days before the date fixed for the hearing. Upon its creation the Commission shall enjoy the powers and have the duties and responsibilities conferred upon it by the Lake Lure municipal ordinance, subject to the provisions of this Article and the laws of the State of North Carolina. The provisions of any ordinance may be modified, amended, or rescinded by a subsequent ordinance.

**"§ 77-82. Governing board.**

Upon its creation, the Commission shall have a governing board. The governing board shall, unless otherwise stated by ordinance, be the Board of Commissioners of the Town of Lake Lure.

**"§ 77-83. Compensation; budgetary and accounting procedures.**

The municipal ordinance shall state the terms relating to compensation to commissioners, if any, compensation of consultants and staff members employed by the Commission, and reimbursement of expenses incurred by commissioners, consultants, and employees. The Commission shall be governed by these budgetary and accounting procedures as may be specified by the municipal ordinance and the applicable laws of North Carolina.

**"§ 77-84. Organization and meetings.**

Upon creation of the Commission, its governing board shall meet at a time and place set by the Town of Lake Lure ordinance. Unless otherwise stated in the ordinance, the mayor of the Town of Lake Lure shall act as the presiding officer. The governing board shall adopt such rules and regulations as it may consider necessary, not inconsistent with the provisions of this Article or of any ordinance of the Town of Lake Lure or the

laws of the State of North Carolina, for the proper discharge of its duties and for the governance of the Commission. In order to conduct business, a quorum must be present. The presiding officer may appoint those committees as may be authorized by such rules and regulations. The Commission shall meet regularly at those times and places as may be specified in its rules and regulations or in the Town of Lake Lure municipal ordinance. Special meetings may be called as specified in the rules and regulations. The provisions of the Open Meetings Law, Article 33C of Chapter 143 of the General Statutes, apply.

**"§ 77-85. Powers of Commission; administrative provision.**

(a) Within the limits of funds available to it, and subject to the provisions of this Article and of the Town of Lake Lure municipal ordinance, the Commission may:

- (1) Hire and fix the compensation of permanent and temporary employees and staff as it may consider necessary in carrying out its duties;
- (2) Contract with consultants for such services as it may require;
- (3) Contract with the State of North Carolina or the federal government, or any agency or department or subdivision of them, for property or services as may be provided to or by these agencies, and carry out the provisions of such contracts;
- (4) Contract with persons, firms, and corporations generally as to all matters over which it has a proper concern, and carry out the provisions of such contracts;
- (5) Lease, rent, purchase, or otherwise obtain suitable quarters and office space for its employees and staff, and lease, rent, purchase, or otherwise obtain furniture, fixtures, vehicles, uniforms, and other supplies and equipment necessary or desirable for carrying out the duties imposed in or under the authority of this Article; and
- (6) Lease, rent, purchase, construct, otherwise obtain, maintain, operate, repair, and replace, either on its own or in cooperation with other public or private agencies or individuals, any of the following: boat docks, navigation aids, waterway markers, public information signs and notices, and other items of real and personal property designed to enhance public recreation, public safety on the waters of Lake Lure and its shoreline area, or protection of property in the shoreline area, subject, however, to the provisions of Chapter 113 of the General Statutes and rules promulgated under that Chapter as to property within North Carolina.

(b) The Commission may accept, receive, and disburse in furtherance of its functions any funds, grants, services, or property made available by the federal government or its agencies or subdivisions, or by private and civic sources.

(c) The Board of Commissioners of the Town of Lake Lure may appropriate funds to the Commission out of surplus funds or funds derived from nontax sources. It may appropriate funds out of tax revenues and may also levy annually taxes for the payment of such appropriation as a special purpose, in addition to any allowed by the North Carolina Constitution or as provided by G.S. 160A-209.

(d) The Commission shall be subject to such audit requirements as may be specified in the municipal ordinance.

(e) In carrying out its duties, and either in addition to or in lieu of exercising various provisions of the above authorizations, the Commission may, with the agreement of the Board of Commissioners of the Town of Lake Lure, utilize personnel

and property of or assign responsibilities to any officer or employee of the Town of Lake Lure. Such contribution in kind, if substantial, may with agreement between the Board and the Commission be considered to substitute in whole or in part for the financial contribution required of the Town in support of the Commission.

**"§ 77-86. Filing and publication of applicable municipal ordinances.**

(a) A copy of the initial municipal ordinance creating the Commission and of any ordinance amending or repealing the resolution creating the Commission shall be filed with:

- (1) The Executive Director of the Wildlife Commission.
- (2) The Secretary of State.
- (3) The clerk to the Town of Lake Lure.
- (4) The clerk of superior court of Rutherford County. Upon request, the Executive Director shall also send a certified single copy of any and all applicable ordinances to the chairman of the Commission.
- (5) A newspaper of general circulation in Rutherford County.

(b) Unless the municipal ordinance specifies a later date, it shall take effect when the text has been submitted to the Secretary of State for filing. Certifications of the Board under the seal of the Commission as to the text or amended text of any municipal ordinance and of the date or dates of submission to the Secretary of State shall be admissible in evidence in any court. Certifications by the clerk of superior court of Rutherford County of the text of any certified ordinance filed with the clerk by the Board is admissible in evidence and the Board's submission of the resolution for filing to the clerk shall constitute prima facie evidence that such resolution was on the date of submission also submitted for filing with the Secretary of State. Except for the certificate of a clerk as to receipt and date of submission, no evidence may be admitted in court concerning the submission of the certified text of any ordinance by the Board to any person other than the Secretary of State.

**"§ 77-87. Regulatory authority.**

(a) Except as limited in subsection (b) of this section, by restrictions in any municipal ordinance, and by other supervening provisions of law, the Commission may make regulations applicable to Lake Lure and its shoreline area concerning all matters relating to or affecting the use of Lake Lure. These regulations may not conflict with provisions of general or special acts or of regulations of State agencies promulgated under the authority of general law. No regulations adopted under the provisions of this section may be adopted by the Commission except after public hearing, with publication of notice of the hearing in a newspaper of general circulation in Rutherford County at least 10 days before the hearing. In lieu of or in addition to passing regulations supplementary to State law and regulations concerning the operation of vessels on Lake Lure, the Commission may, after public notice, request that the Wildlife Resources Commission pass local regulations on this subject in accordance with the procedure established by appropriate State law.

(b) Violation of any regulation of the Commission commanding or prohibiting an act shall be a Class 3 misdemeanor.

(c) The regulations promulgated under this section take effect upon passage or upon such dates as may be stipulated in the regulations except that no regulation may be enforced unless adequate notice of the regulation has been posted in or on Lake Lure or its shoreline area. Ordinances providing regulations for specific areas shall clearly establish the boundaries of the affected area by including a map of the regulated area, with the boundaries clearly drawn, by setting out the boundaries in a written description,

or by a combination of these techniques. Adequate notice as to a regulation affecting only a particular location shall be given in the following manner. When an ordinance providing regulations for a specific area is proposed, owners of the parcel of land involved as shown on the county tax listing, and the owners of land within 500 feet of the proposed area to be regulated, as shown on the county tax listing, shall be mailed a notice of the proposed classification by first-class mail at the last addresses listed for such owners on the county tax abstracts. This mailing requirement does not apply in regulations affecting the entire lake. Notice shall also be given by a sign, uniform waterway marker, posted notice, or other effective method of communicating the essential provisions of the regulation in the immediate vicinity of the location in question. Where a regulation applies generally as to the waters of Lake Lure or its shoreline area, or both, there must be a posting of notices, signs, or markers communicating the essential provisions in at least three different places throughout the area, and it shall be printed in a newspaper of general circulation in Rutherford County.

(d) A copy of each regulation promulgated under this section must be filed by the Commission with the following persons:

- (1) The Secretary of State;
- (2) The clerk of superior court of Rutherford County;
- (3) The Executive Director of the Wildlife Resources Commission; and
- (4) The federal Energy Regulatory Commission licensee for Lake Lure, if other than the Town of Lake Lure.

(e) Any official designated in subsection (d) of this section may issue certified copies of regulations filed with the official under the seal of the official's office. Such certified copies may be received in evidence in any proceeding.

(f) Publication and filing of regulations promulgated under this section as required above are for informational purposes and are a prerequisite to their validity if they in fact have been duly promulgated, the public has been notified as to the substance of the regulations, a copy of the text of all regulations is in fact available to any person who may be affected, and no party to any proceeding has been prejudiced by any defect that may exist with respect to publication and filing. Rules and regulations promulgated by the Commission under the provisions of other sections of this Article relating to internal governance of the Commission need not be filed or published. Where posting of any sign, notice, or marker, or the making of other communication is essential to the validity of a regulation duly promulgated, it is presumed in any proceeding that prior notice was given and maintained, and the burden lies upon the party asserting to the contrary to prove lack of adequate notice of any regulation.

**"§ 77-88. Enforcement.**

(a) Where a municipal ordinance so provides, all law enforcement officers, or those officers as may be designated in the municipal ordinance, with territorial jurisdiction as to any part of the waters of Lake Lure or its shoreline area within the limitations of their subject matter jurisdiction, have the authority of peace officers in enforcing the laws over all of the waters of Lake Lure and its shoreline area. A certificate of training issued by the North Carolina Criminal Justice Education and Training Standards Commission or the North Carolina Sheriffs' Education and Training Standards Commission will suffice for certification for the purposes of this Article.

(b) Where a law enforcement officer with jurisdiction over any part of the waters of Lake Lure or its shoreline area is performing duties relating to the enforcement of the laws on the waters of Lake Lure or in its shoreline area, the officer shall have such extraterritorial jurisdiction as may be necessary to perform the officer's duties. These

duties include investigations of crimes an officer reasonably believes have been, or are about to be, committed within the area in question. This includes traversing by reasonable routes from one portion of this area to another although across territory not within the boundaries of the waters of Lake Lure and its shoreline area; conducting prisoners in custody to a court or to detention facilities as may be authorized by law, although this may involve going outside the area in question; execution of process connected with any criminal offense alleged to have been committed within the boundaries in question, except that this process may not be executed by virtue of this provision beyond the boundaries of Rutherford County. This also includes continuing pursuit of and arresting any violator or suspected violator as to which grounds for arrest arose within the area in question.

(d) Where law enforcement officers are given additional territorial jurisdiction under the provisions of this section, this shall be considered an extension of the duties of the office held, and no officer shall take any additional oath or title of office."

**SECTION 2.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 9<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 6:48 p.m. on the 20<sup>th</sup> day of July, 2003.

**S.B. 529**

**Session Law 2003-333**

**AN ACT TO AUTHORIZE WATER AND SEWER AUTHORITIES TO USE THE SETOFF DEBT COLLECTION ACT.**

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 105A-2(6) reads as rewritten:

**"§ 105A-2. Definitions.**

The following definitions apply in this Chapter:

- ...
- (6) Local agency. – ~~A~~ Any of the following:
    - a. A county, to the extent it is not considered a State ~~agency, agency.~~
    - b. ~~or a~~ A municipality.
    - c. A water and sewer authority created under Article 1 of Chapter 162A of the General Statutes."

**SECTION 2.** This act becomes effective January 1, 2004, and applies to income tax refunds determined on or after that date.

In the General Assembly read three times and ratified this the 9<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 6:49 p.m. on the 20<sup>th</sup> day of July, 2003.

**S.B. 774**

**Session Law 2003-334**

**AN ACT TO ESTABLISH THE DUTIES OF OPERATORS OF SKATEBOARD PARKS, TO ESTABLISH THE DUTIES OF PERSONS WHO ENGAGE IN CERTAIN HAZARDOUS RECREATIONAL ACTIVITIES, AND TO LIMIT THE LIABILITY OF GOVERNMENTAL ENTITIES FOR DAMAGE OR INJURIES**

THAT ARISE OUT OF A PERSON'S PARTICIPATION IN CERTAIN HAZARDOUS RECREATIONAL ACTIVITIES AND THAT OCCUR IN AN AREA DESIGNATED FOR CERTAIN HAZARDOUS RECREATIONAL ACTIVITIES.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Chapter 99E of the General Statutes is amended by adding a new Article to read:

"Article 3.

"Hazardous Recreation Parks Safety and Liability.

**"§ 99E-21. Purpose.**

The purpose of this Article is to encourage governmental owners or lessees of property to make land available to a governmental entity for skateboarding, inline skating, or freestyle bicycling. It is recognized that governmental owners or lessees of property have failed to make property available for such activities because of the exposure to liability from lawsuits and the prohibitive cost of insurance, if insurance can be obtained for such activities. It is also recognized that risks and dangers are inherent in these activities, which risks and dangers should be assumed by those participating in the activities.

**"§ 99E-22. Definitions.**

The following definitions apply in this Article:

- (1) Governmental entity. –
  - a. The State, any county or municipality, or any department, agency, or other instrumentality thereof.
  - b. Any school board, special district, authority, or other entity exercising governmental authority.
- (2) Hazardous recreational activity. – Skateboarding, inline skating, or freestyle bicycling.
- (3) Inherent risk. – Those dangers or conditions that are characteristic of, intrinsic to, or an integral part of skateboarding, inline skating, and freestyle bicycling.

**"§ 99E-23. Duties of operators of skateboard parks.**

(a) No operator of a skateboard park shall permit any person to ride a skateboard therein, unless that person is wearing a helmet, elbow pads, and kneepads.

(b) For any facility owned or operated by a governmental entity that is designed and maintained for the purpose of recreational skateboard use, and that is not supervised on a regular basis, the requirements under subsection (a) of this section are satisfied when all of the following occur:

- (1) The governmental entity adopted an ordinance requiring any person riding a skateboard at the facility to wear a helmet, elbow pads, and kneepads.
- (2) Signs are posted at the facility affording reasonable notice that any person riding a skateboard in the facility must wear a helmet, elbow pads, and kneepads and that any person failing to do so will be subject to citation under the ordinance under subdivision (1) of this subsection.

**"§ 99E-24. Duties of persons engaged in hazardous recreational activities.**

(a) Any person who participates in or assists in hazardous recreational activities assumes the known and unknown inherent risks in these activities, irrespective of age, and is legally responsible for all damages, injury, or death to himself or herself or other

persons or property that result from these activities. Any person who observes hazardous recreational activities assumes the known and unknown inherent risks in these activities, irrespective of age, and is legally responsible for all damages, injury, or death to himself or herself that result from these activities. No public entity that sponsors, allows, or permits skateboarding, inline skating, or freestyle bicycling on its property is required to eliminate, alter, or control the inherent risks in these activities.

(b) While engaged in hazardous recreational activities, irrespective of where such activities occur, a participant is responsible for doing all of the following:

- (1) Acting within the limits of his or her ability and the purpose and design of the equipment used.
- (2) Maintaining control of his or her person and the equipment used.
- (3) Refraining from acting in any manner that may cause or contribute to death or injury of himself or herself or other persons.

(c) Failure to comply with the requirement of subsection (b) of this section constitutes negligence.

**"§ 99E-25. Liability of governmental entities.**

(a) This section does not grant authority or permission for a person to engage in hazardous recreational activities on property owned or controlled by a governmental entity unless such governmental entity has specifically designated such area for these activities.

(b) No governmental entity or public employee who has complied with G.S. 99E-23 shall be liable to any person who voluntarily participates in hazardous recreation activities for any damage or injury to property or persons that arises out of a person's participation in the activity and that takes place in an area designated for the activity.

(c) This section does not limit liability that would otherwise exist for any of the following:

- (1) The failure of the governmental entity or public employee to guard against or warn of a dangerous condition of which a participant does not have and cannot reasonably be expected to have had notice.
- (2) An act of gross negligence by the governmental entity or public employee that is the proximate cause of the injury.

(d) Nothing in this section creates a duty of care or basis of liability for death, personal injury, or damage to personal property. Nothing in this section shall be deemed to be a waiver of sovereign immunity under any circumstances.

(e) Nothing in this section limits the liability of an independent concessionaire or any person or organization other than a governmental entity or public employee, whether or not the person or organization has a contractual relationship with a governmental entity to use the public property, for injuries or damages suffered in any case as a result of the operation of equipment for hazardous recreational activities on public property by the concessionaire, person, or organization.

(f) The fact that a governmental entity carries insurance that covers any activity subject to this Article does not constitute a waiver of the liability limits under this section, regardless of the existence or limits of the coverage."

**SECTION 2.** This act becomes effective October 1, 2003, and applies to activities engaged in on or after that date and to actions that arise on or after that date.

In the General Assembly read three times and ratified this the 9<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 6:49 p.m. on the 20<sup>th</sup> day of July, 2003.

AN ACT TO REQUIRE PHYSICIANS WHO DISPENSE THE CONTROLLED SUBSTANCE BUPRENORPHINE FOR THE TREATMENT OF OPIATE DEPENDENCE TO REGISTER WITH THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 90-101 is amended by adding a new subsection to read:

"(a1) Any physician who prescribes or dispenses Buprenorphine for the treatment of opiate dependence shall annually register with the Department, in accordance with rules adopted by the Commission. In the application for registration under this subsection, the applicant shall document plans to ensure that patients are directly engaged or referred to a qualified provider to receive counseling and case management, as appropriate, and shall acknowledge the application of federal confidentiality regulations to patient information. Applicant plans for referral to appropriate services shall be a written document and may include either an executed memorandum of agreement, contractual arrangement, or linkage agreement with qualified providers. The Department shall provide assistance upon request to physicians registered under this subsection to identify and establish linkages with qualified providers of counseling and case management. The Department shall provide the North Carolina Medical Board with any evidence of noncompliance with this subsection by a qualified physician prior to taking action to rescind the physician's registration to prescribe or dispense Buprenorphine for the treatment of opiate dependency."

**SECTION 2.** This act becomes effective October 1, 2003.

In the General Assembly read three times and ratified this the 9<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 6:50 p.m. on the 20<sup>th</sup> day of July, 2003.

AN ACT TO REQUIRE CERTAIN NOTIFICATIONS BEFORE A TOWER MAY COLLECT CERTAIN CHARGES.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 20-77(d) reads as rewritten:

"(d) An operator of a place of business for garaging, repairing, parking or storing vehicles for the public in which a vehicle remains unclaimed for 10 days, or the landowners upon whose property a motor vehicle has been abandoned for more than 30 days, shall, within five days after the expiration of that period, report the vehicle as unclaimed to the Division. Failure to make such report shall constitute a Class 3 misdemeanor. Persons who are required to make this report and who fail to do so within the time period specified may collect other charges due but may not collect storage charges for the period of time between when they were required to make this report and when they actually did send the report to the Division by certified mail."



Any vehicle which remains unclaimed after report is made to the Division may be sold by such operator or landowner in accordance with the provisions relating to the enforcement of liens and the application of proceeds of sale of Article 1 of Chapter 44A."

**SECTION 2.** This act becomes effective October 1, 2003.

In the General Assembly read three times and ratified this the 9<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 6:50 p.m. on the 20<sup>th</sup> day of July, 2003.

**H.B. 394**

**Session Law 2003-337**

AN ACT CLARIFYING THE LAW PERTAINING TO LEGAL DEADLINES FALLING ON A HOLIDAY.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 103-5(a) reads as rewritten:

"(a) ~~Where~~ Except as otherwise provided by law, when the day or the last day for doing ~~an~~ any act required or permitted by law to be ~~done~~ performed in a public office or courthouse falls on ~~Sunday or a holiday~~ Saturday, Sunday, or legal holiday when the public office or courthouse is closed for transactions, the act may be ~~done~~ performed on the next succeeding secular or business day that the public office or courthouse is open for transactions, and ~~where the courthouse in any county is closed on Saturday or any other day by order of the board of county commissioners of said county and the day or the last day required for filing an advance bid or the filing of any pleading or written instrument of any kind with any officer having an office in the courthouse, or the performance of any act required or permitted to be done in said courthouse falls on Saturday or other day during which said courthouse is closed as aforesaid, then said Saturday or other day during which said courthouse is closed as aforesaid shall be deemed a holiday; and said advance bid, pleading or other written instrument may be filed, and any act required or permitted to be done in the courthouse may be done on the next day during which the courthouse is open for business.~~"

**SECTION 2.** G.S. 1A-1, Rule 6(a) reads as rewritten:

"(a) Computation. – In computing any period of time prescribed or allowed by these rules, by order of court, or by any applicable statute, including rules, orders or statutes respecting publication of notices, the day of the act, event, default or publication after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday or a legal ~~holiday~~, holiday when the courthouse is closed for transactions, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or a legal ~~holiday~~, holiday when the courthouse is closed for transactions. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays, and holidays shall be excluded in the computation. A half holiday shall be considered as other days and not as a holiday."

**SECTION 3.** G.S. 45-21.21(e) reads as rewritten:

"(e) A sale may be postponed more than once provided the final postponed sale date is not later than 90 days, exclusive of Sunday and legal ~~holidays~~, holidays when the courthouse is closed for transactions, after the original date for the sale."

**SECTION 4.** G.S. 45-21.23 reads as rewritten:

**"§ 45-21.23. Time of sale.**

A sale shall begin at the time designated in the notice of sale or as soon thereafter as practicable, but not later than one hour after the time fixed therefor unless it is delayed by other sales held at the same place. The sale shall be held between the hours of 10:00 A.M. and 4:00 P.M. on any day other than Sunday or a legal ~~holiday~~holiday when the courthouse is closed for transactions."

**SECTION 5.** G.S. 45-21.24 reads as rewritten:

**"§ 45-21.24. Continuance of uncompleted sale.**

A sale commenced but not completed within the time allowed by G.S. 45-21.23 shall be continued by the person holding the sale to a designated time between 10:00 o'clock A.M. and 4:00 o'clock P.M. the next following day, other than Sunday or a legal ~~holiday~~holiday when the courthouse is closed for transactions. In case such continuance becomes necessary, the person holding the sale shall publicly announce the time to which the sale is continued."

**SECTION 6.** G.S. 45-21.27(a) reads as rewritten:

"(a) An upset bid is an advanced, increased, or raised bid whereby any person offers to purchase real property theretofore sold, for an amount exceeding the reported sale price or last upset bid by a minimum of five percent (5%) thereof, but in any event with a minimum increase of seven hundred fifty dollars (\$750.00). Subject to the provisions of subsection (b) of this section, an upset bid shall be made by delivering to the clerk of superior court, with whom the report of sale or last notice of upset bid was filed, a deposit in cash or by certified check or cashier's check satisfactory to the clerk in an amount greater than or equal to five percent (5%) of the amount of the upset bid but in no event less than seven hundred fifty dollars (\$750.00). The deposit required by this section shall be filed with the clerk of the superior court, with whom the report of the sale or the last notice of upset bid was filed by the close of normal business hours on the tenth day after the filing of the report of the sale or the last notice of upset bid, and if the tenth day shall fall upon a Sunday or legal ~~holiday~~holiday when the courthouse is closed for transactions, or upon a day in which the office of the clerk is not open for the regular dispatch of its business, the deposit may be made and the notice of upset bid filed on the day following when said office is open for the regular dispatch of its business. Subject to the provisions of G.S. 45-21.30, there shall be no resales; rather, there may be successive upset bids each of which shall be followed by a period of 10 days for a further upset bid. When an upset bid is not filed following a sale, resale, or prior upset bid within the time specified, the rights of the parties to the sale or resale become fixed."

**SECTION 7.** G.S. 1-339.64(a) reads as rewritten:

"(a) An upset bid is an advanced, increased, or raised bid whereby a person offers to purchase real property theretofore sold for an amount exceeding the reported sale price or last upset bid by a minimum of five percent (5%) thereof, but in any event with a minimum increase of seven hundred fifty dollars (\$750.00). Subject to the provisions of subsection (b) of this section, an upset bid shall be made by delivering to the clerk of superior court, with whom the report of sale or the last notice of upset bid was filed, a deposit in cash or by certified check or cashier's check satisfactory to the clerk in an amount greater than or equal to five percent (5%) of the amount of the upset bid but in no event less than seven hundred fifty dollars (\$750.00). The deposit required by this section shall be filed with the clerk of the superior court, with whom the report of sale or the last notice of upset bid was filed, by the close of normal business hours on the

tenth day after the filing of the report of sale or the last notice of upset bid and if the tenth day falls upon a Sunday or legal holiday when the courthouse is closed for transactions, or upon a day in which the office of the clerk is not open for the regular dispatch of its business, the deposit may be made and the notice of upset bid may be filed on the day following when the office is open for the regular dispatch of its business. Except as provided in G.S. 1-339.66A and G.S. 1-339.69, there shall be no resales; however, there may be successive upset bids, each of which shall be followed by a period of 10 days for a further upset bid. If a timely motion for resale is filed under G.S. 1-339.66A, no upset bids may be filed while the motion is pending."

**SECTION 8.** G.S. 1-339.25(a) reads as rewritten:

"(a) An upset bid is an advanced, increased, or raised bid in a public sale by auction whereby a person offers to purchase real property theretofore sold for an amount exceeding the reported sale price or the last upset bid by a minimum of five percent (5%) thereof, but in any event with a minimum increase of seven hundred fifty dollars (\$750.00). Subject to the provisions of subsection (b) of this section, an upset bid shall be made by delivering to the clerk of superior court, with whom the report of the sale or the last notice of upset bid was filed, a deposit in cash or by certified check or cashier's check satisfactory to the clerk in an amount greater than or equal to five percent (5%) of the amount of the upset bid but in no event less than seven hundred fifty dollars (\$750.00). The deposit required by this section shall be filed with the clerk of the superior court with whom the report of sale or the last notice of upset bid was filed, by the close of normal business hours on the tenth day after the filing of the report of sale or the last notice of upset bid, and if the tenth day falls upon a Sunday or legal holiday when the courthouse is closed for transactions, or upon a day in which the office of the clerk is not open for the regular dispatch of its business, the deposit may be made and the notice of upset bid may be filed on the day following when the office is open for the regular dispatch of its business. Except as provided in G.S. 1-339.27A and G.S. 1-339.30, there shall be no resales; however, there may be successive upset bids, each of which shall be followed by a period of 10 days for a further upset bid. If a timely motion for resale is filed under G.S. 1-339.27A, no upset bids may be filed while the motion is pending."

**SECTION 9.** G.S. 7B-506(e) reads as rewritten:

"(e) If the court orders at the hearing required in subsection (a) of this section that the juvenile remain in custody, a subsequent hearing on continued custody shall be held within seven business days of that hearing, excluding Saturdays, Sundays, and legal ~~holidays~~, holidays when the courthouse is closed for transactions, and pending a hearing on the merits, hearings thereafter shall be held at intervals of no more than 30 calendar days."

**SECTION 10.** G.S. 7B-1906(b) reads as rewritten:

"(b) As long as the juvenile remains in secure or nonsecure custody, further hearings to determine the need for continued secure custody shall be held at intervals of no more than 10 calendar days. A subsequent hearing on continued nonsecure custody shall be held within seven business days, excluding Saturdays, Sundays, and legal ~~holidays~~, holidays when the courthouse is closed for transactions, of the initial hearing required in subsection (a) of this section and hearings thereafter shall be held at intervals of no more than 30 calendar days. In the case of a juvenile alleged to be delinquent, further hearings may be waived only with the consent of the juvenile, through counsel for the juvenile."

**SECTION 11.** G.S. 105-374(m) reads as rewritten:

"(m) Sale. – The sale shall be by public auction to the highest bidder and shall, in accordance with the judgment, be held at the courthouse door on any day of the week except a Sunday or legal ~~holiday~~, holiday when the courthouse is closed for transactions. (In actions brought by a municipality that is not a county seat, the court may, in its discretion, direct that the sale be held at the city or town hall door.) The commissioner conducting the sale may, in his discretion, require from any successful bidder a deposit equal to not more than twenty percent (20%) of his bid, which deposit, in the event that the bidder refuses to take title and a resale becomes necessary, shall be applied to pay the costs of sale and any loss resulting. (However, this provision shall not deprive the commissioner of his right to sue for specific performance of the contract.) No deposit shall be required of a taxing unit that has made the highest bid at the foreclosure sale."

**SECTION 12.** G.S. 156-105 reads as rewritten:**"§ 156-105. Assessment lien; collection; sale of land.**

The assessments shall constitute a first and paramount lien, second only to State and county taxes, upon the lands assessed for the payment of the bonds and interest thereon as they become due, and shall be collected in the same manner and by the same officers as the State and county taxes are collected. The assessments shall be due and payable on the first Monday in September each year, and if the same shall not be paid in full by the thirty-first day of December following, it shall be the duty of the sheriff or tax collector to sell the lands so delinquent. The sale of lands for failure to pay such assessments shall be made at the courthouse door of the county in which the lands are situated, between the hours of 10 o'clock in the forenoon and four o'clock in the afternoon of any date except Sunday or another legal ~~holiday~~, holiday when the courthouse is closed for transactions, which may be designated by the board of drainage commissioners. After any such sale date has been designated by the board of drainage commissioners, if for any necessary cause the sale cannot be made on that date, the sale may be continued from day to day for not exceeding four days, or the lands may be readvertised and sold on any day which the board of drainage commissioners may or shall designate during the same hours and without any order being obtained therefor during the same calendar year. Nothing in this section shall be construed to require any order from any court for any sale or resale held hereunder. The existing general tax law in force when sales are made for delinquent assessments shall have application in redeeming lands so sold; and in all other respects, except as herein or otherwise modified or amended, the existing law as to the collection of State and county taxes shall apply to the collection of such drainage assessments. No bid at any sale shall be received unless sufficient in amount to discharge all the drainage assessments and other charges due by the delinquent lands or owner thereof, together with all costs and expenses of sale. If no sufficient bid be received, the board of drainage commissioners of the district shall be deemed the purchaser in its corporate capacity at a sum sufficient to pay all assessments which are due and costs as above stated, and shall be entitled to receive a certificate of purchase and deed in the manner provided by law for purchasers at tax sales. The board of drainage commissioners shall only be required to pay to the sheriff the costs and expenses of sale before receiving a certificate of purchase. The board of drainage commissioners of the district in their corporate capacity shall be in like position and have the same rights and be subject to the same duties as the purchaser of lands at any tax sale under the general law. If the board of drainage commissioners shall have been the purchaser of lands so sold, the amount paid in redemption by the owner, or any

person having an estate therein or lien thereon, shall include the sum bid therefor plus the penalty. The board of drainage commissioners shall pay to the sheriff or tax collector the amount representing their bid at the sale of said lands before they shall be entitled to receive a deed therefor, which the sheriff shall pay to the treasurer of the drainage district in the same manner as other funds received by him. The board of drainage commissioners, after acquiring a deed for said lands, may hold the same as an asset of the district, and shall be liable for the payment of all drainage assessments and State and county taxes accruing after the sale at which the district was a bidder, and in all respects be deemed the owner of said lands and subject to the same privileges and liabilities as any other landowner, including the right to convey the said lands for a consideration and pay the proceeds of said sale to the treasurer of the district, which may be distributed by the drainage commissioners for the benefit of the district in the same manner as other district funds.

If any sheriff or tax collector failed for any reason to collect drainage assessments upon lands in any drainage districts due in 1917, or any subsequent years, and further failed to make valid sales of the lands so delinquent in the payment of such assessments, then and in such event the existing sheriff or tax collector is hereby authorized and directed to proceed to collect such unpaid drainage assessments, with interest thereon from the dates when such assessments respectively became due, and in default of payment being made he is further authorized to make sales of such lands as may be in default at any time hereafter, at the times and in the manner authorized by law as amended herein; and the purchaser at said sales shall acquire title to such lands in the manner provided by law. If the sheriff or tax collector in office at the time such assessments were in default has since died or gone out of office, the powers herein given shall be exercised by the existing sheriff or tax collector.

The 1931 amendment to this section shall have the same force and effect from and after April 13, 1931, as if it had been ratified and enacted prior to the first day of January, 1929, and no sale of drainage lands held under the provisions of section 5361 shall be deemed or declared void by reason of the fact that they may not have been held on the day specified in section 5361 of the Consolidated Statutes prior to this amendment."

**SECTION 13.** This act becomes effective October 1, 2003, and applies to any act required or permitted by law to be done on or after that date.

In the General Assembly read three times and ratified this the 9<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 6:51 p.m. on the 20<sup>th</sup> day of July, 2003.

## H.B. 425

## Session Law 2003-338

AN ACT TO AMEND THE REQUIREMENT THAT SMALL HORSE TRAILERS DESIGNED TO CARRY FOUR OR FEWER HORSES MUST STOP AT PERMANENT WEIGH STATIONS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 20-118.1 reads as rewritten:

"§ 20-118.1. **Officers may weigh vehicles and require overloads to be removed.**

A law enforcement officer may stop and weigh a vehicle to determine if the vehicle's weight is in compliance with the vehicle's declared gross weight and the weight limits

set in this Part. The officer may require the driver of the vehicle to drive to a scale located within five miles of where the officer stopped the vehicle.

Any person operating a vehicle or a combination of vehicles having a GVWR of 10,001 pounds or more or any vehicle transporting hazardous materials that is required to be placarded under 49 C.F.R. § 171-180 must enter a permanent weigh station or temporary inspection or weigh site as directed by duly erected signs or an electronic transponder for the purpose of being electronically screened for compliance, or weighed, or inspected.

If the vehicle's weight exceeds the amount allowable, the officer may detain the vehicle until the overload has been removed. Any property removed from a vehicle because the vehicle was overloaded is the responsibility of the owner or operator of the vehicle. The State is not liable for damage to or loss of the removed property.

Failure to permit a vehicle to be weighed or to remove an overload is a misdemeanor of the Class set in G.S. 20-176. An officer must weigh a vehicle with a scale that has been approved by the Department of Agriculture and Consumer Services.

A privately owned noncommercial horse trailer constructed to transport four or fewer horses shall not be required to stop at any permanent weigh station in the State while transporting horses, unless the driver of the vehicle hauling the trailer is directed to stop by a law enforcement officer. A 'privately owned noncommercial horse trailer' means a trailer used solely for the occasional transportation of horses and not for compensation or in furtherance of a commercial enterprise."

**SECTION 2.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 9<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 6:52 p.m. on the 20<sup>th</sup> day of July, 2003.

## H.B. 1118

## Session Law 2003-339

AN ACT TO REQUIRE SIGNS TO BE POSTED WARNING OF THE POSSIBLE DANGERS OF CONSUMPTION OF ALCOHOL DURING PREGNANCY.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 18B-203(a) is amended by adding the following new subdivision to read:

"(18) Provide for the distribution and posting of warning signs to local ABC boards regarding the dangers of alcohol consumption during pregnancy as required under G.S. 18B-808."

**SECTION 2.** Article 8 of Chapter 18B of the General Statutes is amended by adding the following new section to read:

**"§ 18B-808. Warning signs regarding dangers of alcohol consumption during pregnancy required; posting.**

(a) Each ABC store shall display or cause to be displayed warning signs that meet the requirements of this section on the store's premises to inform the public of the effects of alcohol consumption during pregnancy.

(b) The Commission shall develop the warning signs in accordance with subsection (c) of this section and provide for their distribution and replacements to local ABC boards subject to the requirement of this section. The Commission may charge a

reasonable fee, not to exceed twenty-five dollars (\$25.00), for each sign, including replacement signs.

(c) The signs required by this section shall:

- (1) Be composed of black, capital letters printed on white paper at the minimum weight of one hundred ten pound index. The letters comprising the word 'WARNING' shall be highlighted black lettering and shall be larger than all other lettering on the sign.
- (2) Contain the message: 'WARNING Pregnancy and alcohol do not mix. Drinking alcohol during pregnancy can cause birth defects.'
- (3) The size of the sign shall be at least eight and one-half inches by 14 inches.
- (4) Contain a graphic depiction of the message to assist nonreaders in understanding the message. The depiction of a pregnant female shall be universal and shall not reflect a specific race or culture.
- (5) Be in both English and Spanish.

(d) A local ABC board shall ensure that each ABC store manager displays the warning sign in an open and prominent place in the store within 30 days of receipt of the sign from the Commission."

**SECTION 3.** This act is effective when it becomes law. The Commission and each local ABC board shall be in full compliance with the requirements of this act no later than six months after the day the bill becomes law.

In the General Assembly read three times and ratified this the 9<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 6:57 p.m. on the 20<sup>th</sup> day of July, 2003.

**S.B. 824**

**Session Law 2003-340**

AN ACT TO AMEND VARIOUS LAWS RELATED TO THE ENVIRONMENT, ENVIRONMENTAL HEALTH, AND NATURAL RESOURCES TO: (1) MAKE CLARIFYING, CONFORMING, AND TECHNICAL AMENDMENTS; (2) AMEND THE REPORTING REQUIREMENT SET OUT IN S.L. 2001-442; (3) CLARIFY WHAT CONSTITUTES A BASE OF OPERATIONS FOR MOBILE FOOD UNITS AND PUSHCARTS; (4) INCREASE THE MEMBERSHIP OF THE ENVIRONMENTAL REVIEW COMMISSION BY TWO; (5) EXTEND BY ONE YEAR THE TIME THAT TEMPORARY RULES TO PROTECT WATER QUALITY AND RIPARIAN BUFFERS IN CERTAIN RIVER BASINS WILL REMAIN IN EFFECT; (6) EXTEND BY TWO YEARS THE PILOT PROGRAM FOR INSPECTION OF ANIMAL WASTE MANAGEMENT SYSTEMS INITIALLY ESTABLISHED BY SECTION 15.4 OF S.L. 1997-443; AND (7) ESTABLISH AN EXCEPTION TO THE MORATORIUM INITIALLY ESTABLISHED BY SECTION 1.2 OF S.L. 1997-458 FOR FACILITIES THAT WERE APPROVED FOR FUNDING UNDER THE AGRICULTURE COST SHARE PROGRAM FOR NONPOINT SOURCE POLLUTION CONTROL AT THE TIME THE MORATORIUM WAS ESTABLISHED.

*The General Assembly of North Carolina enacts:*

**SECTION 1.1.** G.S. 113-44.8(a) reads as rewritten:

"(a) The State of North Carolina offers unique archaeologic, geologic, biological, scenic, and recreational resources. These resources are part of the heritage of the people of this State. The heritage of a people should be preserved and managed by ~~those~~ the people for their use and for the use of their visitors and descendants."

**SECTION 1.2.** G.S. 113-173(e) reads as rewritten:

"(e) Replacement RCGL. – The provisions of ~~G.S.~~ G.S. 113-168.1(h) apply to this section."

**SECTION 1.3.** Article 13A of Chapter 113 of the General Statutes (G.S. 113-145.1 through G.S. 113-145.8) is recodified as Article 18 of Chapter 113A of the General Statutes (G.S. 113A-251 through G.S. 113A-259). The Revisor of Statutes is authorized to correct any reference in the General Statutes to the statutes that are recodified by this section.

**SECTION 1.4.** G.S. 113A-232(a) reads as rewritten:

"(a) Fund Created. – The Conservation Grant Fund is created within the Department of Environment and Natural Resources. The Fund shall be administered by ~~that~~ the Department. The purpose of the Fund is to stimulate the use of conservation easements and conservation tax credits, to improve the capacity of private nonprofit land trust organizations to successfully accomplish conservation projects, to better equip real estate related professionals to pursue opportunities for conservation, to increase landowner participation in land and water conservation, and to provide an opportunity to leverage private and other public monies for conservation easements."

**SECTION 1.5.** G.S. 130A-248(a4) reads as rewritten:

"(a4) For the protection of the public health, the Commission shall adopt rules governing the sanitation of limited food service establishments. In adopting the rules, the Commission shall not limit the number of days that limited food service establishments may operate. Limited food service establishment permits shall be issued only to political subdivisions of the State, establishments operated by volunteers that prepare or serve food in conjunction with amateur athletic events, ~~or for establishments operated by other charitable organizations. On and after January 1, 1996, limited food service establishment permits shall be issued only to political subdivisions of the State, establishments operated by volunteers that prepare or serve food in conjunction with amateur athletic events, or for establishments operated by organizations that have applied for exemption or are exempt from federal income tax under section 501(c)(3) or section 501(c)(4) of the Internal Revenue Code. On and after January 1, 1997, limited food service establishment permits shall be issued only to political subdivisions of the State, establishments operated by volunteers that prepare or serve food in conjunction with amateur athletic events, or for establishments operated by organizations that are exempt from federal income tax under section 501(c)(3) or section 501(c)(4) of the Internal Revenue Code.~~

**SECTION 1.6.** G.S. 130A-309.14(a1)(3) reads as rewritten:

"(3) The Department of Administration and the Department of Transportation shall each provide by 1 October of each year to the Department of Environment and Natural Resources a detailed description of the respective Agency's review and revision of bid procedures and purchase and use of reusable, refillable, repairable, more durable, and less toxic supplies and products. The information provided by the Department of Administration and the Department of



Transportation to the Department of Environment and Natural Resources shall also be included in the report required by G.S. 130A-309.06(c)."

**SECTION 1.7.** G.S. 143-215.107B reads as rewritten:

"§ **143-215.107B. Statewide goals for reduction in emissions of ~~nitrogen oxides;~~ oxides of nitrogen; report.**

It shall be the goal of the State to reduce emissions of ~~nitrogen oxides~~ of nitrogen (NOx) from all sources by at least twenty-five percent (25%) by 1 July 2009. It shall be the goal of the State to reduce the growth of vehicle miles traveled in the State by at least twenty-five percent (25%) of that growth that would otherwise occur by 1 July 2009. The Department of Environment and Natural Resources and the Department of Transportation shall evaluate progress toward achieving these goals in each fiscal year and shall report their findings and recommendations as to any measures that may be needed to achieve these goals to the Environmental Review Commission on or before 1 October of each ~~year beginning 1 October 2000~~ year."

**SECTION 1.8.(a)** If Senate Bill 945, 2003 Regular Session, does not become law, then G.S. 143-215.108(a) reads as rewritten:

"(a) Except as provided in subsections (a1) and (a2) of this section, no person shall do any of the following things or carry out any of the following activities ~~which that~~ that ~~contravene or will be likely to contravene standards established pursuant to G.S. 143-215.107 or set out in G.S. 143-215.107D unless that person has obtained from the Commission a permit therefor for the activity from the Commission and has complied with any conditions of this the permit:~~

- (1) Establish or operate any air contaminant ~~source;~~ source.
- (2) Build, erect, ~~use-use,~~ or operate any equipment ~~which that~~ which that may result in the emission of an air ~~contaminants~~ contaminant or ~~which that~~ is likely to cause air ~~pollution;~~ pollution.
- (3) Alter or change the construction or method of operation of any equipment or process from which air contaminants are or may be ~~emitted;~~ emitted.
- (4) Enter into an irrevocable contract for the construction and installation of any air-cleaning device, or allow or cause ~~such any air-cleaning~~ any air-cleaning device to be constructed, installed, or operated."

**SECTION 1.8.(b)** If Senate Bill 945, 2003 Regular Session, becomes law, then G.S. 143-215.108(a), as amended by Section 1 of Senate Bill 945, 2003 Regular Session, reads as rewritten:

"(a) Except as provided in subsections (a1) and (a2) of this section, no person shall do any of the following things or carry out any of the following activities that contravene or will be likely to contravene standards established pursuant to G.S. 143-215.107 or set out in G.S. 143-215.107D unless that person has obtained a permit ~~therefor for the activity~~ from the Commission and has complied with any conditions of the permit:

- (1) Establish or operate any air contaminant source, except as provided in G.S. 143-215.108A.
- (2) Build, erect, ~~use-use,~~ or operate any equipment that may result in the emission of an air contaminant or that is likely to cause air pollution, except as provided in G.S. 143-215.108A.

- (3) Alter or change the construction or method of operation of any equipment or process from which air contaminants are or may be emitted."

**SECTION 1.9.** G.S. 143-726(d)(4) reads as rewritten:

"(4) The Secretary of the ~~Department of~~ Environment and Natural Resources."

**SECTION 1.10.** G.S. 143B-428 reads as rewritten:

**"§ 143B-428. Department of Commerce – declaration of policy.**

It is hereby declared to be the policy of the State of North Carolina to actively encourage the expansion of existing environmentally sound North Carolina industry; to actively encourage the recruitment of environmentally sound national and international industry into North Carolina through industrial recruitment efforts and through effective advertising, with an emphasis on high-wage-paying industry; to promote the development of North Carolina's labor force to meet the State's growing industrial needs; to promote the growth and development of our travel and tourist industries; to promote the development of our State ports; ~~to promote the management of North Carolina's energy resources and the development of a State energy policy;~~ and to assure throughout State government, the coordination of North Carolina's economic development efforts."

**SECTION 2.** Section 7 of S.L. 2001-442 reads as rewritten:

**"SECTION 7.** Beginning 1 ~~March 2002,~~ September 2003, the ~~Department Secretary of~~ Environment and Natural Resources shall submit ~~a semiannual~~ an annual report to the Environmental Review Commission on the implementation of Sections 1 through 6 of this act as a part of the report required by G.S. 143-215.94M."

**SECTION 3.** G.S. 130A-248(c1) reads as rewritten:

"(c1) The Commission shall adopt rules governing the sanitation of pushcarts and mobile food units. A permitted restaurant or commissary shall serve as a base of operations for a pushcart or mobile food unit ~~shall be operated in conjunction with a permitted restaurant unit.~~"

**SECTION 4.** G.S. 120-70.42 reads as rewritten:

**"§ 120-70.42. Membership; cochairs; vacancies; quorum.**

(a) The Environmental Review Commission shall consist of six Senators appointed by the President Pro Tempore of the Senate, six Representatives appointed by the Speaker of the House of Representatives, who shall serve at the pleasure of their appointing officer, the Chair or a Cochair of the Senate Committee on Agriculture, Environment, and Natural Resources or the equivalent committee, ~~and the Chair or a Cochair~~ of the House of Representatives Committee on Environment and Natural Resources or the equivalent committee, the Chair or a Cochair of the Senate Committee on Appropriations – Natural and Economic Resources or the equivalent committee, and the Chair or a Cochair of the House of Representatives Committee on Appropriations – Natural and Economic Resources or the equivalent committee.

(b) The President Pro Tempore of the Senate shall designate one Senator to serve as cochair and the Speaker of the House of Representatives shall designate one Representative to serve as cochair.

(c) Except as otherwise provided in this subsection, a member of the Commission shall continue to serve for so long as the member remains a member of the General Assembly and no successor has been appointed. A member of the Commission who does not seek reelection or is not reelected to the General Assembly may complete a term of service on the Commission until the day on which a new General Assembly

convenes. A member of the Commission who resigns or is removed from service in the General Assembly shall be deemed to have resigned or been removed from service on the Commission. Any vacancy that occurs on the Environmental Review Commission shall be filled in the same manner as the original appointment.

(d) A quorum of the Environmental Review Commission shall consist of ~~eight~~ nine members."

**SECTION 5.** Subsection (a) of Section 4 of S.L. 2001-418 reads as rewritten:

"**SECTION 4.(a)** Notwithstanding G.S. 150B-21.1(d), temporary rules 15A NCAC 2B.0243 and 15A NCAC 2B.0244, which were adopted pursuant to Section 7.1 of S.L. 1999-329 and which became effective on or before 1 July 2001, shall continue in effect until 1 September ~~2003-2004~~ in order to provide sufficient time for the Environmental Management Commission to further consult with businesses and industries, local governments, landowners, and other interested or potentially affected persons in the upper and lower Catawba River Basin as to the appropriate scope of permanent rules to protect water quality and riparian buffers in that river basin. In developing permanent rules, the Commission shall consider whether riparian buffers on the main stem of the Catawba River and on lake shorelines are adequate to protect water quality in the river and whether riparian buffer protection requirements should or should not be extended to some or all of the tributary streams in the river basin, taking into account the sources of water quality degradation in the river, the topography of the land in the river basin, and other relevant factors."

**SECTION 6.1.** Section 15.4(a) of S.L. 1997-443, as amended by Section 3.1 of S.L. 1999-329, Section 5 of S.L. 2001-254, and Section 1.1 of S.L. 2002-176, reads as rewritten:

"(a) The Department of Environment and Natural Resources shall develop and implement a pilot program to begin no later than 1 November 1997, and to terminate 1 September ~~2003-2005~~, regarding the annual inspections of animal operations that are subject to a permit under Article 21 of Chapter 143 of the General Statutes. The Department shall select two counties located in a part of the State that has a high concentration of swine farms to participate in this pilot program. In addition, Brunswick County shall be added to the program. Notwithstanding G.S. 143-215.10F, the Division of Soil and Water Conservation of the Department of Environment and Natural Resources shall conduct inspections of all animal operations that are subject to a permit under Article 21 of Chapter 143 of the General Statutes in these three counties at least once a year to determine whether any animal waste management system is causing a violation of water quality standards and whether the system is in compliance with its animal waste management plan or any other condition of the permit. The personnel of the Division of Soil and Water Conservation who are to conduct these inspections in each of these three counties shall be located in an office in the county in which that person will be conducting inspections. As part of this pilot program, the Department of Environment and Natural Resources shall establish procedures whereby resources within the local Soil and Water Conservation Districts serving the three counties are used for the quick response to complaints and reported problems previously referred only to the Division of Water Quality of the Department of Environment and Natural Resources."

**SECTION 6.2.** Section 3.3 of S.L. 1999-329, as amended by Section 6 of S.L. 2001-254 and Section 1.2 of S.L. 2002-176, reads as rewritten:

"Section 3.3. The Department of Environment and Natural Resources, in consultation with both the Division of Water Quality and the Division of Soil and Water Conservation, shall submit semiannual interim reports no later than 15 October 1999, 15 April 2000, and 15 October 2000, 15 April 2001, 15 October 2001, 15 April 2002, and 15 April 2003 of each year beginning 15 October 1999 and shall submit a final report no later than 15 October 2003/2005 to the Environmental Review Commission and to the Fiscal Research Division. These reports shall indicate whether the pilot program has increased the effectiveness of the annual inspections program or the response to complaints and reported problems, specifically whether the pilot program had resulted in identifying violations earlier, taking corrective actions earlier, increasing compliance with the animal waste management plans and permit conditions, improving the time to respond to discharges, complaints, and reported problems, improving communications between farmers and Department employees, and any other consequences deemed pertinent by the Department. These reports shall also compare the costs of conducting operations reviews and inspections under the pilot program with the costs of conducting operations reviews and inspections pursuant to G.S. 143-215.10D and G.S. ~~143-215.10F~~-143-215.10F and the resources that would be required to expand the pilot program to all counties. The final report shall include a recommendation as to whether to continue or expand the pilot program under this act. The Environmental Review Commission may recommend to the ~~2003~~-General Assembly whether to continue or expand the pilot program under this act and may make any related legislative proposals."

**SECTION 7.** The moratorium established by Section 1.2 of S.L. 1997-458; as amended by Section 3 of S.L. 1998-188, Section 2.2 of S.L. 1999-329, Section 2 of S.L. 2001-254, and Section 2 of S.L. 2003-266; on new swine farms and lagoons and on the expansion of existing swine farms and lagoons shall not apply to any swine farm or lagoon that would otherwise be prohibited by the moratorium if, on or before 27 August 1997, the Soil and Water Conservation Commission allocated funds under the Agriculture Cost Share Program for Nonpoint Source Pollution Control established pursuant to G.S. 143-215.74 for the construction or expansion of the otherwise prohibited swine farm or lagoon. The Environmental Management Commission may issue a permit for an animal waste management system, as defined by G.S. 143-215.10B, or for a new swine farm or lagoon or the expansion of an existing swine farm or lagoon, as defined in G.S. 106-802, that is authorized by this section.

**SECTION 8.** If any section or provision of this act is declared unconstitutional or invalid by the courts, the unconstitutional or invalid section or provision does not affect the validity of this act as a whole or any part of this act other than the part declared to be unconstitutional or invalid.

**SECTION 9.** Section 5 of this act is effective retroactively to 30 June 2003. All other sections of this act are effective when this act becomes law.

In the General Assembly read three times and ratified this the 10<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 1:32 p.m. on the 27<sup>th</sup> day of July, 2003.

## S.B. 939

## Session Law 2003-341

## AN ACT TO EXTEND THE SURCHARGE FOR THE TELECOMMUNICATIONS RELAY SERVICE TO INCLUDE WIRELESS COMMUNICATIONS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 62-157 reads as rewritten:

**"§ 62-157. Telecommunications relay service.**

(a) Finding. – The General Assembly finds and declares that it is in the public interest to provide access to public telecommunications services for hearing impaired or speech impaired persons, including those who also have vision impairment, and that a statewide telecommunications relay service for telephone service should be established.

(a1) Definitions. – For purposes of this section:

(1) 'CMRS' is as defined in G.S. 62A-21.

(2) 'CMRS connection' is as defined in G.S. 62A-21.

(3) 'CMRS provider' is as defined in G.S. 62A-21.

~~(4)~~(4) "Exchange access facility" means the access from a particular telephone subscriber's premises to the telephone system of a local exchange telephone company, and includes local exchange company-provided access lines, private branch exchange trunks, and centrex network access registers, all as defined by tariffs of telephone companies as approved by the Commission.

~~(2)~~(5) "Local service provider" means a local exchange company, competing local provider, or telephone membership corporation.

(b) Authority to Require Surcharge. – The Commission shall require local service providers to impose a monthly surcharge on all residential and business local exchange access facilities to fund a statewide telecommunications relay service by which hearing impaired or speech impaired persons, including those who also have vision impairment, may communicate with others by telephone. This surcharge, however, may not be imposed on participants in the Subscriber Line Charge Waiver Program or the Link-up Carolina Program established by the Commission. This surcharge, and long distance revenues collected under subsection (f) of this section, are not includable in gross receipts subject to the franchise tax levied under G.S. 105-120 or the sales tax levied under G.S. 105-164.4.

(c) Specification of Surcharge. – The Department of Health and Human Services shall initiate a telecommunications relay service by filing a petition with the Commission requesting the service and detailing initial projected required funding. The Commission shall, after giving notice and an opportunity to be heard to other interested parties, set the initial monthly surcharge based upon the amount of funding necessary to implement and operate the service, including a reasonable margin for a reserve. The surcharge shall be identified on customer bills as a special surcharge for provision of a telecommunications relay service for hearing impaired and speech impaired persons. The Commission may, upon petition of any interested party, and after giving notice and an opportunity to be heard to other interested parties, revise the surcharge from time to time if the funding requirements change. In no event shall the surcharge exceed twenty-five cents (25¢) per month for each exchange access facility.

(d) Funds to Be Deposited in Special Account. – The local service providers shall collect the surcharge from their customers and deposit the moneys collected with the State Treasurer, who shall maintain the funds in an interest-bearing, nonreverting

account. After consulting with the State Treasurer, the Commission shall direct how and when the local service providers shall deposit these moneys. Revenues from this fund shall be available only to the Department of Health and Human Services to administer the statewide telecommunications relay service program, including its establishment, operation, and promotion. The Commission may allow the Department of Health and Human Services to use up to four cents (4¢) per access line per month of the surcharge for the purpose of providing telecommunications devices for hearing impaired or speech impaired persons, including those who also have vision impairment, through a distribution program. The Commission shall prepare such guidelines for the distribution program as it deems appropriate and in the public interest. Both the Commission and the Public Staff may audit all aspects of the telecommunications relay service program, including the distribution programs, as ~~it does~~ they do with any public utility subject to the provisions of this Chapter. Equipment paid for with surcharge revenues, as allowed by the Commission, may be distributed only by the Department of Health and Human Services.

(e) Administration of Service. – The Department of Health and Human Services shall administer the statewide telecommunications relay service program, including its establishment, operation, and promotion. The Department may contract out the provision of this service for four-year periods to one or more service providers, using the provisions of G.S. 143-129.

(f) Charge to Users. – The users of the telecommunications relay service shall be charged their approved long distance and local rates for telephone services (including the surcharge required by this section), but no additional charges may be imposed for the use of the relay service. The local service providers shall collect revenues from the users of the relay service for long distance services provided through the relay service. These revenues shall be deposited in the special fund established in subsection (d) of this section in a manner determined by the Commission after consulting with the State Treasurer. Local service providers shall be compensated for collection, inquiry, and other administrative services provided by said companies, subject to the approval of the Commission.

(g) Reporting Requirement. – The Commission shall, after consulting with the Department of Health and Human Services, develop a format and filing schedule for a comprehensive financial and operational report on the telecommunications relay service program. The Department of Health and Human Services shall thereafter prepare and file these reports as required by the Commission with the Commission and the Public Staff. The Department shall also be required to report to the Revenue Laws Study Committee.

(h) Power to Regulate. – The Commission shall have the same power to regulate the operation of the telecommunications relay service program as it has to regulate any public utility subject to the provisions of this Chapter.

(i) Wireless Surcharge. – A CMRS provider, as part of its monthly billing process, must collect the same surcharge imposed on each exchange access facility under this section for each CMRS connection. A CMRS provider may deduct a one percent (1%) administrative fee from the total amount of surcharge collected. A CMRS provider shall remit the surcharge collected, less the administrative fee, to the Wireless 911 Board in the same manner and with the same frequency as the local service providers remit the surcharge to the State Treasurer. The Wireless 911 Board shall remit the funds collected from the surcharge to the special account created under subsection (d) of this section."

**SECTION 2.** This act becomes effective January 1, 2004, and applies to bills issued on or after that date.

In the General Assembly read three times and ratified this the 10<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 1:33 p.m. on the 27<sup>th</sup> day of July, 2003.

**H.B. 743**

**Session Law 2003-342**

AN ACT TO ESTABLISH A NURSE TESTIMONIAL PRIVILEGE.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Article 7 of Chapter 8 of the General Statutes is amended by adding a new section to read:

**"§ 8-53.13. Nurse privilege.**

No person licensed pursuant to Article 9A of Chapter 90 of the General Statutes shall be required to disclose any information that may have been acquired in rendering professional nursing services, and which information was necessary to enable that person to render professional nursing services, except that the presiding judge of a superior or district court may compel disclosure if, in the court's opinion, disclosure is necessary to a proper administration of justice and disclosure is not prohibited by other statute or rule."

**SECTION 2.** This act becomes effective October 1, 2003.

In the General Assembly read three times and ratified this the 10<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 1:34 p.m. on the 27<sup>th</sup> day of July, 2003.

**H.B. 907**

**Session Law 2003-343**

AN ACT TO AMEND THE LAWS RELATING TO THE COUNCIL FOR THE DEAF AND THE HARD OF HEARING, TO INCREASE THE MEMBERS ON THE COUNCIL, AND TO CHANGE THE APPOINTING AUTHORITY FOR TWO OF THE MEMBERS APPOINTED TO THE COUNCIL.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 143B-216.31 reads as rewritten:

**"§ 143B-216.31. Council for the Deaf and the Hard of Hearing – creation and duties.**

There is hereby created the Council for the Deaf and the Hard of Hearing of the Department of Health and Human Services. The Council shall have duties including the following:

- (1) To make recommendations to the Secretary of the Department of Health and Human Services ~~regarding improvement of human services to the deaf and the hard of hearing;~~ for cost-effective provision, coordination, and improvement of services;
- (2) ~~To study ways to promote public understanding of the problems of the deaf and the hard of hearing and to consider the need for new State programs concerning deafness;~~ create public awareness of the specific

- needs and abilities of people who are deaf, hard of hearing, or deaf-blind and to consider the need for new State programs concerning the deaf, hard of hearing, and deaf-blind;
- (3) To advise the Secretary of the Department of Health and Human Services in the preparation of a plan describing the quality, extent and scope of services provided or to be provided, to deaf and hard of hearing persons in this State; during planning and implementation of services being provided to North Carolina citizens who are deaf, hard of hearing, or deaf-blind with respect to the quality, extent, and scope of those services;
- (4) To study any State programs that provide educational services for deaf and hard of hearing persons and to advise the Secretary of the Department of Health and Human Services and the Superintendent of Public Instruction concerning coordination of these programs to prevent duplication of services; and advise the Secretary of the Department of Health and Human Services and the Superintendent of the Department of Public Instruction regarding planning, implementation, and cost-effective coordination of State programs providing educational services for persons who are deaf, hard of hearing, or deaf-blind; and
- (5) To advise and make recommendations to the Secretary of the Department of Health and Human Services upon any matter as requested by the Secretary; respond to the request of the Secretary of the Department of Health and Human Services for advice or recommendations pertaining to any matter affecting deaf, hard of hearing, or deaf-blind citizens of North Carolina."

**SECTION 2.** G.S. 143B-216.32 reads as rewritten:

**"§ 143B-216.32. Council for the Deaf and the Hard of Hearing – membership; quorum; compensation.**

(a) The Council for the Deaf and the Hard of Hearing shall consist of ~~25~~28 members. ~~Fifteen~~Twenty members shall be members appointed by the Governor. Three members appointed by the Governor shall be persons who are deaf and three members shall be persons who are hard of hearing. One appointment shall be an educator who trains deaf education teachers and one appointment shall be an audiologist licensed under Article 22 of Chapter 90 of the General Statutes. Three appointments shall be parents of deaf or hard of hearing children including one parent of a student in a residential school; one parent of a student in a preschool program; and one parent of a student in a mainstream education program, with at least one parent coming from each region of the North Carolina schools for the deaf regions. One member appointed by the Governor shall be recommended by the President of the North Carolina Association of the Deaf; one member shall be recommended by the President of the North Carolina Deaf-Blind Associates; one member shall be recommended by the North Carolina Chapter of Self Help for the Hard of Hearing (SHHH); one member shall be recommended by the North Carolina Black Deaf Advocates (NCBDA); one member shall be a representative from a facility that performs cochlear implants; one member shall be recommended by the President of the North Carolina Pediatric Society; one member shall be recommended by the President of the North Carolina Registry of Interpreters for the Deaf; one member shall be recommended by a local education agency; and one member shall be ~~nominated~~recommended by the Superintendent of



Public Instruction. Two members shall be appointed from the House of Representatives by the Speaker of the House of Representatives and two members shall be appointed from the Senate by the President Pro Tempore of the Senate. The Secretary of Health and Human Services shall appoint ~~six~~ four members as follows: one from the Division of Vocational Rehabilitation, one from the Division of Aging, one from the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, and one from the Division of Social Services, ~~one from a North Carolina Chapter of SHHH (Self Help for the Hard of Hearing), and one from SPEAK (Statewide Parents' Education and Advocacy for Kids) Services.~~

(b) The terms of the initial members of the Council shall commence July 1, 1989. In his initial appointments, the Governor shall designate four members who shall serve terms of five years, four who shall serve terms of four years, four who shall serve terms of three years, and three who shall serve terms of two years. After the initial appointees' terms have expired, all members shall be appointed for a term of four years. No member ~~appointed by the Governor~~ shall serve more than two successive ~~terms~~ terms unless the member is an employee of the Department of Health and Human Services or the Department of Public Instruction representing his or her agency as a specialist in the field of service.

Any appointment to fill a vacancy on the Council created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term.

(c) The chairman of the Council shall be designated by the Secretary of the Department of Health and Human Services from the Council members. The chairman shall hold this office for not more than four years.

(d) The Council shall meet quarterly and at other times at the call of the chairman. A majority of the Council shall constitute a quorum.

(e) Council members shall be reimbursed for expenses incurred in the performance of their duties in accordance with G.S. 138-5.

(f) The Secretary of the Department of Health and Human Services shall provide clerical and other assistance as needed."

**SECTION 3.** Pursuant to G.S. 143B-216.32(a), as enacted in Section 2 of this act, when the term of the member appointed by the Secretary of Health and Human Services who is a representative from the North Carolina Chapter of Self Help for the Hard of Hearing (SHHH) expires, the Governor shall appoint one member upon the recommendation of the North Carolina Chapter of Self Help for the Hard of Hearing to serve a four-year term to commence July 1, 2003. When the term of the member appointed by the Secretary of Health and Human Services who is a representative from Statewide Parents' Education and Advocacy for Kids (SPEAK) expires, the Governor shall appoint one member upon the recommendation of the North Carolina Black Deaf Advocates (NCBDA) to serve a four-year term to commence July 1, 2003.

Pursuant to G.S. 143B-216.32(a), as enacted in Section 2 of this act, the member appointed by the Governor as recommended by the President of the North Carolina Deaf-Blind Associates shall be appointed for a four-year term to commence July 1, 2003, the member who is a representative from a facility that performs cochlear implants and who is appointed by the Governor shall be appointed for a four-year term to commence July 1, 2003, and the member appointed by the Governor as recommended by a local education agency shall be appointed for a four-year term to commence July 1, 2003. Members described in this section shall serve for the terms for which they were appointed and until their successors are appointed and qualified.

**SECTION 4.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 10<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 1:36 p.m. on the 27<sup>th</sup> day of July, 2003.

**H.B. 948****Session Law 2003-344**

AN ACT TO CLARIFY THE AUTHORITIES OF THE DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES AND THE WILDLIFE RESOURCES COMMISSION WITH RESPECT TO THE REGULATION OF CERVIDS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 113-129(1b) reads as rewritten:

"(1b) Big Game. – Bear, wild boar, wild turkey, and deer, ~~not to include fallow deer or red deer raised for production and sale under G.S. 106-549.97.~~ white-tailed deer."

**SECTION 2.** G.S. 113-129 is amended by adding a new subdivision to read:

"(1f) Cervid or Cervidae. – All animals in the Family Cervidae (elk and deer)."

**SECTION 3.** G.S. 113-129 is amended by adding two new subdivisions to read:

"(5a) Deer. – White-tailed deer (*Odocoileus virginianus*), except when otherwise specified in this Chapter.

(5b) Farmed Cervid. – Any member of the Cervidae family, other than white-tailed deer, elk, mule deer, or black-tailed deer, that is bought and sold for commercial purposes."

**SECTION 4.** G.S. 113-129(7c) reads as rewritten:

"(7c) Game Animals. – Bear, fox, rabbit, squirrel, wild boar, ~~and white-tailed deer, not to include fallow deer or red deer raised for production and sale under G.S. 106-549.97;~~ and, except when trapped in accordance with provisions relating to fur-bearing animals, bobcat, opossum, and ~~raccoon-raccoon, except when trapped in accordance with provisions relating to fur-bearing animals."~~

**SECTION 5.** Article 21 of Chapter 113 of the General Statutes is amended by adding a new section to read:

**"§ 113-272.6. Transportation of cervids and licensing of captive cervid facilities.**

(a) The Wildlife Resources Commission shall regulate the transportation, including importation and exportation, and possession of cervids, including game carcasses and parts of game carcasses extracted by hunters. The Commission shall adopt rules to implement this section, including requirements for captivity licenses, captivity permits, and transportation permits. The rules adopted pursuant to this section shall establish standards of care for the transportation and possession of cervids, including requirements for fencing, tagging, record keeping, and inspection of captive cervid facilities. Notwithstanding any other provision of law, the Commission may charge a fee of up to fifty dollars (\$50.00) for the processing of applications for captivity licenses, captivity permits, and transportation permits, and the renewal or modification

of those licenses and permits. The fees collected shall be applied to the costs of administering this section.

(b) The Wildlife Resources Commission shall notify every applicant for a transportation permit that any permit issued is subject to the applicant's compliance with the Department of Agriculture and Consumer Services' requirements for transportation pursuant to Article 34 of Chapter 106 of the General Statutes.

(c) The Department of Agriculture and Consumer Services shall regulate the production and sale of farmed cervids for commercial purposes pursuant to G.S. 106-549.97.

(d) Notwithstanding any other provision of law, the North Carolina Wildlife Resources Commission shall issue captivity licenses, captivity permits, or transportation permits to any person possessing cervids that were held in captivity by that person prior to May 17, 2002, if the Executive Director finds that the applicant has come into compliance with all applicable rules related to the holding of cervids in captivity by January 1, 2004, and that issuance of such license or permit does not pose unreasonable risk to the conservation of wildlife resources.

(e) Any captivity license, captivity permit, or cervids held contrary to the provisions of this section may be subject to forfeiture and disposition in accordance with the provisions of G.S. 113-137 or G.S. 113-276.2."

**SECTION 6.** G.S. 113-276.2(a) reads as rewritten:

"(a) This section applies to the administrative control of:

- (1) Persons, other than individual hunters and fishermen taking wildlife as sportsmen, holding permits under this Article;
- (2) Individuals holding special device licenses under G.S. 113-272.2(c)(1), (1a), (2), and (2a);
- (3) Individuals holding collection licenses under G.S. 113-272.4;
- (4) Individuals holding captivity licenses under ~~G.S. 113-272.5~~; G.S. 113-272.5 and G.S. 113-272.6; and
- (5) Persons holding dealer licenses under G.S. 113-273."

**SECTION 7.** G.S. 113-291.2(c) reads as rewritten:

"(c) An individual who has lawfully taken game within applicable bag, possession, and season limits may, except as limited by rules adopted pursuant to subsection (c1) of this section, after the game is dead, possess and personally transport it for his own use by virtue of his hunting license, and without any additional permit, subject to tagging and reporting requirements that may apply to the fox and big game, as follows:

- (1) In an area in which the season is open for the species, the game may be possessed and transported without restriction.
- (2) The individual may possess and transport the game lawfully taken on a trip:
  - a. To his residence;
  - b. To a preservation or processing facility that keeps adequate records as prescribed in G.S. 113-291.3(b)(3) or a licensed taxidermist;
  - c. From a place authorized in subparagraph b to his residence.
- (3) The individual may possess the game indefinitely at his residence, and may there accumulate lawfully-acquired game up to the greater of:
  - a. The applicable possession limit for each species; or
  - b. One half of the applicable season limit for each species.

The above subdivisions apply to an individual hunter under 16 years of age covered by the license issued to his parent or guardian, if he is using that license, or by the license of an adult accompanying him. An individual who has lawfully taken game as a landholder without a license may possess and transport the dead game, taken within applicable bag, possession, and season limits, to his residence. He may indefinitely retain possession of such game, within aggregate possession limits for the species in question, in his residence."

**SECTION 8.** G.S. 113-291.2 is amended by adding a new subsection to read:

"(c1) In the event that the Executive Director finds that game carcasses or parts of game carcasses are known or suspected to carry an infectious or contagious disease that poses an imminent threat to the health or habitat of wildlife species, the Wildlife Resources Commission shall adopt rules to regulate the importation, transportation, or possession of those carcasses or parts of carcasses that, according to wildlife disease experts, may transmit such a disease."

**SECTION 9.** G.S. 113-292(d) reads as rewritten:

"(d) The Wildlife Resources Commission is authorized to authorize, license, regulate, prohibit, prescribe, or restrict anywhere in the State the acquisition, importation, possession, transportation, disposition, or release into public or private waters or the environment of ~~exotic~~ zoological or botanical species or specimens that may threaten the introduction of epizootic disease or may create a danger to or an imbalance in the environment inimical to the conservation of wildlife resources. This subsection is not intended to give the Wildlife Resources Commission the authority to supplant, enact any conflicting rules, or otherwise take any action inconsistent with that of any other State agency acting within its jurisdiction."

**SECTION 10.** G.S. 113-294 is amended by adding a new subsection to read:

"(p) Any person who willfully imports or possesses black-tailed or mule deer (Odocoileus hemionus and all subspecies) in this State for any purpose is guilty of a Class 1 misdemeanor."

**SECTION 11.** G.S. 106-549.97 reads as rewritten:

**"§ 106-549.97. Regulation of ~~fallow deer and red deer~~ by Department of Agriculture and Consumer Services; Services of certain cervids produced and sold for commercial purposes; certain authority of North Carolina Wildlife Resources Commission not affected; definitions.**

(a) The Department of Agriculture and Consumer Services shall regulate the production and sale of ~~fallow deer and red deer for food purposes.~~ farmed cervids. The Board of Agriculture shall adopt rules for the production and sale of ~~fallow deer and red deer for food purposes~~ farmed cervids in such a manner as to provide for close supervision of any person, firm, or corporation producing and selling ~~fallow deer or red deer, or both, for food purposes.~~ farmed cervids and shall notify any such person, firm, or corporation that the activity is subject to compliance with Wildlife Resources Commission rules pursuant to G.S. 113-272.6.

(b) The North Carolina Wildlife Resources Commission shall regulate the ~~possession and transportation of live fallow deer and live red deer and may adopt rules to prevent the release or escape of fallow deer or red deer, or both, upon finding that it is necessary to protect live fallow deer or live red deer, or both, or to prevent damage to the native deer population or its habitat.~~ possession and transportation, including importation and exportation, of cervids pursuant to G.S. 113-272.6.

- (c) The following definitions apply in this Article:
- (1) ~~Fallow deer. — A member of the Dama dama species.~~
  - (2) ~~Red deer. — A member of the Cervus elephus species.~~
  - (3) Cervid or Cervidae. — All animals in the Family Cervidae (elk and deer).
  - (4) Farmed Cervid. — Any member of the Cervidae family, other than white-tailed deer, elk, mule deer, or black-tailed deer, that is bought and sold for commercial purposes.
  - (5) White-tailed deer. — A member of the species Odocoileus virginianus."

**SECTION 12.** Section 10 of this act becomes effective October 1, 2003, and applies to acts committed on or after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 10<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 1:36 p.m. on the 27<sup>th</sup> day of July, 2003.

**S.B. 716**

**Session Law 2003-345**

AN ACT TO REPEAL THE UNIFORM ARBITRATION ACT AND TO ENACT THE REVISED UNIFORM ARBITRATION ACT.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Article 45A of Chapter 1 of the General Statutes is repealed.

**SECTION 2.** Chapter 1 of the General Statutes is amended by adding a new Article to read:

"Article 45C.

"Revised Uniform Arbitration Act.

**"§ 1-569.1. Definitions.**

The following definitions apply in this Article:

- (1) 'Arbitration organization' means an association, agency, board, commission, or other entity that is neutral and initiates, sponsors, or administers an arbitration proceeding or is involved in the appointment of an arbitrator.
- (2) 'Arbitrator' means an individual appointed to render an award, alone or with others, in a controversy that is subject to an agreement to arbitrate.
- (3) 'Court' means a court of competent jurisdiction in this State.
- (4) 'Knowledge' means actual knowledge.
- (5) 'Person' means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality; public corporation; or any other legal or commercial entity.
- (6) 'Record' means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

**"§ 1-569.2. Notice.**

(a) Except as otherwise provided in this Article, a person gives notice to another person by taking action that is reasonably necessary to inform the other person in the ordinary course, whether or not the other person acquires knowledge of the notice.

(b) A person has notice if the person has knowledge of the notice or has received notice.

(c) A person receives notice when it comes to the person's attention or the notice is delivered at the person's place of residence or place of business or at another location held out by the person as a place of delivery of communications.

**"§ 1-569.3. When Article applies.**

(a) This Article governs an agreement to arbitrate made on or after January 1, 2004.

(b) This Article governs an agreement to arbitrate made before January 1, 2004, if all parties to the agreement or to the arbitration proceeding agree in a record that this Article applies.

**"§ 1-569.4. Effect of agreement to arbitrate; nonwaivable provisions.**

(a) Except as otherwise provided in subsections (b) and (c) of this section, a party to an agreement to arbitrate or to an arbitration proceeding may waive, or the parties may vary the effect of, the requirements of this Article to the extent provided by law.

(b) Before a controversy arises that is subject to an agreement to arbitrate, a party to the agreement may not:

- (1) Waive or agree to vary the effect of the requirements of G.S. 1-569.5(a), 1-569.6(a), 1-569.8, 1-569.17(a), 1-569.17(b), 1-569.26, or 1-569.28;
- (2) Agree to unreasonably restrict the right under G.S. 1-569.9 to notice of the initiation of an arbitration proceeding;
- (3) Agree to unreasonably restrict the right under G.S. 1-569.12 to disclosure of any facts by a neutral arbitrator; or
- (4) Waive the right under G.S. 1-569.16 of a party to an agreement to arbitrate to be represented by an attorney at any proceeding or hearing under this Article, but an employer and a labor organization may waive the right to representation by a lawyer in a labor arbitration.

(c) A party to an agreement to arbitrate or to an arbitration proceeding may not waive, or the parties shall not vary the effect of, the requirements of this section or G.S. 1-569.3(a), 1-569.7, 1-569.14, 1-569.18, 1-569.20(d), 1-569.20(e), 1-569.22, 1-569.23, 1-569.24, 1-569.25(a), 1-569.25(b), 1-569.29, 1-569.30, 1-569.31. Any waiver contrary to this section shall not be effective but shall not have the effect of voiding the agreement to arbitrate.

**"§ 1-569.5. Application for judicial relief.**

(a) Except as otherwise provided in G.S. 1-569.28, an application for judicial relief under this Article shall be made by motion to the court and heard in the manner provided by law or rule of court for making and hearing motions.

(b) Unless a civil action involving the agreement to arbitrate is pending, notice of an initial motion to the court under this Article shall be served in the manner provided by law for the service of a summons in a civil action. Otherwise, notice of the motion shall be given in the manner prescribed by law or rule of court for serving motions in pending cases.

**"§ 1-569.6. Validity of agreement to arbitrate.**

(a) An agreement contained in a record to submit to arbitration any existing or subsequent controversy arising between the parties to the agreement is valid, enforceable, and irrevocable except upon a ground that exists at law or in equity for revoking a contract.

(b) The court shall decide whether an agreement to arbitrate exists or a controversy is subject to an agreement to arbitrate.

(c) An arbitrator shall decide whether a condition precedent to arbitrability has been fulfilled and whether a contract containing a valid agreement to arbitrate is enforceable.

(d) If a party to a judicial proceeding challenges the existence of, or claims that a controversy is not subject to, an agreement to arbitrate, the arbitration proceeding may continue pending final resolution of the issue by the court, unless the court otherwise orders.

**"§ 1-569.7. Motion to compel or stay arbitration.**

(a) On motion of a person showing an agreement to arbitrate and alleging another person's refusal to arbitrate pursuant to the agreement:

(1) If the refusing party does not appeal or does not oppose the motion, the court shall order the parties to arbitrate; and

(2) If the refusing party opposes the motion, the court shall proceed summarily to decide the issue and order the parties to arbitrate unless it finds that there is no enforceable agreement to arbitrate.

(b) On motion of a person alleging that an arbitration proceeding has been initiated or threatened but that there is no agreement to arbitrate, the court shall proceed summarily to decide the issue. If the court finds that there is an enforceable agreement to arbitrate, it shall order the parties to arbitrate.

(c) If the court finds that there is no enforceable agreement to arbitrate, it shall not, pursuant to subsection (a) or (b) of this section, order the parties to arbitrate.

(d) The court shall not refuse to order arbitration because the claim subject to arbitration lacks merit or because grounds for the claim have not been established.

(e) If a proceeding involving a claim referable to arbitration under an alleged agreement to arbitrate is pending in a court, a motion under this section shall be made in that court. Otherwise a motion under this section may be made in any court as provided in G.S. 1-569.27.

(f) If a party makes a motion to the court to order arbitration, the court on just terms shall stay any judicial proceeding that involves a claim alleged to be subject to the arbitration until the court renders a final decision under this section.

(g) If the court orders arbitration, the court on just terms shall stay any judicial proceeding that involves a claim subject to the arbitration. If a claim subject to the arbitration is severable, the court may limit the stay to that claim.

**"§ 1-569.8. Provisional remedies.**

(a) Before an arbitrator is appointed and is authorized and able to act, the court, upon motion of a party to an arbitration proceeding and for good cause shown, may enter an order for provisional remedies to protect the effectiveness of the arbitration proceeding to the same extent and under the same conditions as if the controversy were the subject of a civil action.

(b) After an arbitrator is appointed and is authorized and able to act:

(1) The arbitrator may issue orders for provisional remedies, including interim awards, as the arbitrator finds necessary to protect the

effectiveness of the arbitration proceeding and to promote the fair and expeditious resolution of the controversy, to the same extent and under the same conditions as if the controversy were the subject of a civil action; and

- (2) A party to an arbitration proceeding may move the court for a provisional remedy if the matter is urgent and the arbitrator is not able to act in a timely manner or the arbitrator cannot provide an adequate remedy.

(c) A party does not waive the right to arbitrate by making a motion under subsection (a) or (b) of this section.

**"§ 1-569.9. Initiation of arbitration.**

(a) A person initiates an arbitration proceeding by giving notice in a record to the other parties to the agreement to arbitrate in the agreed manner between the parties or, in the absence of agreement, by certified or registered mail, return receipt requested, and obtained, or by service as authorized for the commencement of a civil action. The notice shall describe the nature of the controversy and the remedy sought.

(b) Unless a person objects for lack or insufficiency of notice under G.S. 1-569.15(c) no later than the beginning of the arbitration hearing, the person, by appearing at the hearing, waives any objection to lack or insufficiency of notice.

**"§ 1-569.10. Consolidation of separate arbitration proceedings.**

(a) Except as otherwise provided in subsection (c) of this section, upon motion of a party to an agreement to arbitrate or to an arbitration proceeding, the court may order consolidation of separate arbitration proceedings as to all or some of the claims if:

- (1) There are separate agreements to arbitrate or separate arbitration proceedings between the same persons or one of them is a party to a separate agreement to arbitrate or a separate arbitration with a third person;
- (2) The claims subject to the agreements to arbitrate arise in substantial part from the same transaction or series of related transactions;
- (3) The existence of a common issue of law or fact creates the possibility of conflicting decisions in the separate arbitration proceedings; and
- (4) Prejudice resulting from a failure to consolidate is not outweighed by the risk of undue delay or prejudice to the rights of or hardship to parties opposing consolidation.

(b) The court may order consolidation of separate arbitration proceedings as to some claims and allow other claims to be resolved in separate arbitration proceedings.

(c) The court shall not order consolidation of the claims of a party to an agreement to arbitrate if the agreement prohibits consolidation.

**"§ 1-569.11. Appointment of arbitrator; service as a neutral arbitrator.**

(a) If the parties to an agreement to arbitrate agree on a method for appointing an arbitrator, that method shall be followed, unless the method fails. If the parties have not agreed on a method, the agreed method fails, or an arbitrator appointed fails or is unable to act and a successor has not been appointed, the court, on motion of a party to the arbitration proceeding, shall appoint the arbitrator. An arbitrator so appointed has all the powers of an arbitrator designated in the agreement to arbitrate or appointed pursuant to the agreed method.

(b) An individual who has a known, direct, and material interest in the outcome of the arbitration proceeding or a known, existing, and substantial relationship with a party shall not serve as an arbitrator required by an agreement to be neutral.



**"§ 1-569.12. Disclosure by arbitrator.**

(a) Before accepting appointment, an individual who is requested to serve as an arbitrator, after making a reasonable inquiry, shall disclose to all parties to the agreement to arbitrate and to the arbitration proceeding and to any other arbitrators any known facts that a reasonable person would consider likely to affect the impartiality of the arbitrator in the arbitration proceeding, including:

- (1) A financial or personal interest in the outcome of the arbitration proceeding; and
- (2) An existing or past relationship with any of the parties to the agreement to arbitrate or to the arbitration proceeding, their counsel or representatives, a witness, or other arbitrators.

(b) An arbitrator has a continuing obligation to disclose to all parties to the agreement to arbitrate and to the arbitration proceeding and to any other arbitrators any facts that the arbitrator learns after accepting appointment which a reasonable person would consider likely to affect the impartiality of the arbitrator.

(c) If an arbitrator discloses a fact required by subsection (a) or (b) of this section to be disclosed and a party timely objects to the appointment or continued service of the arbitrator based upon the fact disclosed, the objection may be a ground under G.S. 1-569.23(a)(2) for vacating an award made by the arbitrator.

(d) If the arbitrator did not disclose a fact as required by subsection (a) or (b) of this section, upon timely objection by a party, the court under G.S. 1-569.23(a)(2) may vacate an award.

(e) An arbitrator appointed as a neutral arbitrator who does not disclose a known, direct, and material interest in the outcome of the arbitration proceeding or a known, existing, and substantial relationship with a party is presumed to act with evident partiality under G.S. 1-569.23(a)(2).

(f) If the parties to an arbitration proceeding agree to the procedures of an arbitration organization or any other procedures for challenges to arbitrators before an award is made, substantial compliance with those procedures is a condition precedent to a motion to vacate an award on that ground under G.S. 1-569.23(a)(2).

**"§ 1-569.13. Action by majority.**

If there is more than one arbitrator, the powers of an arbitrator shall be exercised by a majority of the arbitrators, but all of them shall conduct the hearing under G.S. 1-569.15(c).

**"§ 1-569.14. Immunity of arbitrator; competency to testify; attorneys' fees and costs.**

(a) An arbitrator or an arbitration organization acting in that capacity is immune from civil liability to the same extent as a judge of a court of this State acting in a judicial capacity.

(b) The immunity afforded by this section supplements any immunity under other law.

(c) The failure of an arbitrator to make a disclosure required by G.S. 1-569.12 shall not cause any loss of immunity under this section.

(d) In a judicial, administrative, or similar proceeding, an arbitrator or representative of an arbitration organization is not competent to testify and shall not be required to produce records as to any statement, conduct, decision, or ruling occurring during the arbitration proceeding to the same extent as a judge of a court of this State acting in a judicial capacity. This subsection shall not apply:

- (1) To the extent necessary to determine the claim of an arbitrator, arbitration organization, or representative of the arbitration organization against a party to the arbitration proceeding; or
- (2) To a hearing on a motion to vacate an award under G.S. 1-569.23(a)(1) or (a)(2) if the movant makes a prima facie showing that a ground for vacating the award exists.

(e) If a person commences a civil action against an arbitrator, arbitration organization, or representative of an arbitration organization arising from the services of the arbitrator, organization, or representative, or if a person seeks to compel an arbitrator or a representative of an arbitration organization to testify or produce records in violation of subsection (d) of this section, and the court decides that the arbitrator, arbitration organization, or representative of an arbitration organization is immune from civil liability or that the arbitrator or representative of the organization is not competent to testify, the court shall award to the arbitrator, organization, or representative reasonable attorneys' fees, costs, and other reasonable expenses of litigation.

(f) Immunity under this section shall not apply to acts or omissions that occur with respect to the operation of a motor vehicle.

**"§ 1-569.15. Arbitration process.**

(a) An arbitrator may conduct an arbitration in the manner the arbitrator considers appropriate for a fair and expeditious disposition of the proceeding. The authority conferred upon the arbitrator includes the power to hold conferences with the parties to the arbitration proceeding before the hearing and, among other matters, determine the admissibility, relevance, materiality, and weight of any evidence.

(b) An arbitrator may decide a request for summary disposition of a claim or particular issue:

- (1) If all interested parties agree; or
- (2) Upon request of one party to the arbitration proceeding if that party gives notice to all other parties to the proceeding and the other parties have a reasonable opportunity to respond.

(c) If an arbitrator orders a hearing, the arbitrator shall set a time and place and give notice of the hearing not less than five days before the hearing begins. Unless a party to the arbitration proceeding objects to the lack or insufficiency of notice not later than the beginning of the hearing, the party's appearance at the hearing waives the objection. Upon request of a party to the arbitration proceeding and for good cause shown, or upon the arbitrator's own initiative, the arbitrator may adjourn the hearing from time to time as necessary but shall not postpone the hearing to a time later than that fixed by the agreement to arbitrate for making the award unless the parties to the arbitration proceeding consent to a later date. The arbitrator may hear and decide the controversy upon the evidence produced although a party who was duly notified did not appear. The court, upon request, may direct the arbitrator to conduct the hearing promptly and render a timely decision.

(d) At a hearing under subsection (c) of this section, a party to the arbitration proceeding may be heard, present evidence material to the controversy, and cross-examine witnesses appearing at the hearing.

(e) If an arbitrator ceases to or is unable to act during the arbitration proceeding, a replacement arbitrator shall be appointed in accordance with G.S. 1-569.11 to continue the proceeding and to resolve the controversy.

(f) The rules of evidence shall not apply in arbitration proceedings, except as to matters of privilege or immunities.

**"§ 1-569.16. Representation by lawyer.**

A party to an arbitration proceeding may be represented by an attorney or attorneys.

**"§ 1-569.17. Witnesses; subpoenas; depositions; discovery.**

(a) An arbitrator may issue a subpoena for the attendance of a witness and for the production of records and other evidence at any hearing and may administer oaths. A subpoena shall be served in the manner for service of subpoenas in a civil action and, upon motion to the court by a party to the arbitration proceeding or the arbitrator, enforced in the manner for enforcement of subpoenas in a civil action.

(b) In order to make the proceedings fair, expeditious, and cost-effective, upon request of a party to or a witness in an arbitration proceeding, an arbitrator may permit a deposition of any witness to be taken for use as evidence at the hearing, including a witness who cannot be subpoenaed for or is unable to attend a hearing. The arbitrator shall determine the conditions under which the deposition is taken.

(c) An arbitrator may permit any discovery the arbitrator decides is appropriate under the circumstances, taking into account the needs of the parties to the arbitration proceeding and other affected persons and the desirability of making the proceeding fair, expeditious, and cost-effective.

(d) If an arbitrator permits discovery under subsection (c) of this section, the arbitrator may order a party to the arbitration proceeding to comply with the arbitrator's discovery-related orders, issue subpoenas for the attendance of a witness and for the production of records and other evidence at a discovery proceeding, and take action against a noncomplying party to the extent a court could if the controversy were the subject of a civil action in this State.

(e) An arbitrator may issue a protective order to prevent the disclosure of privileged information, confidential information, trade secrets, and other information protected from disclosure to the extent a court could if the controversy were the subject of a civil action in this State.

(f) All laws compelling a person under subpoena to testify and all fees for attending a judicial proceeding, a deposition, or a discovery proceeding as a witness apply to an arbitration proceeding as if the controversy were the subject of a civil action in this State.

(g) The court may enforce a subpoena or discovery-related order for the attendance of a witness within this State and for the protection of records and other evidence issued by an arbitrator in connection with an arbitration proceeding in another state upon conditions determined by the court so as to make the arbitration proceeding fair, expeditious, and cost-effective. A subpoena or discovery-related order issued by an arbitrator in another state shall be served in the manner provided by law for service of subpoenas in a civil action in this State and, upon motion to the court by a party to the arbitration proceeding or the arbitrator, enforced in the manner provided by law for enforcement of subpoenas in a civil action in this State.

(h) An arbitrator shall not have the authority to hold a party in contempt of any order the arbitrator makes under this section. A court may hold parties in contempt for failure to obey an arbitrator's order, or an order made by the court, pursuant to this section, among other sanctions imposed by the arbitrator or the court.

**"§ 1-569.18. Judicial enforcement of preaward ruling by arbitrator.**

(a) If an arbitrator makes a preaward ruling in favor of a party to the arbitration proceeding, the party may request the arbitrator to incorporate the ruling into an award under G.S. 1-569.19. A prevailing party may make a motion to the court for an expedited order to confirm the award under G.S. 1-569.22, in which case the court shall

summarily decide the motion. The court shall issue an order to confirm the award unless the court vacates, modifies, or corrects the award under G.S. 1-569.23 or G.S. 1-569.24.

(b) An arbitrator's ruling under subsection (a) of this section that denies a request for a preaward ruling is not subject to trial court review. A party whose request under subsection (a) of this section for a preaward ruling has been denied by an arbitrator may seek relief under G.S. 1-569.20 and G.S. 1-569.21 from any final award the arbitrator renders.

(c) There is no right of appeal from trial court orders and judgments on preaward rulings by an arbitrator after a trial court award under this section, G.S. 1-569.19, and G.S. 1-569.28.

**"§ 1-569.19. Award.**

(a) An arbitrator shall make a record of an award. The record shall be signed or otherwise authenticated as authorized by federal or State law by any arbitrator who concurs with the award. The arbitrator or the arbitration organization shall give notice of the award, including a copy of the award, to each party to the arbitration proceeding.

(b) An award shall be made within the time specified by the agreement to arbitrate or, if not specified therein, within the time ordered by the court. The court may extend or the parties to the arbitration proceeding may agree in a record to extend the time. The court or the parties may extend the time within or after the time specified or ordered. A party waives any objection that an award was not timely made unless that party gives notice of the objection to the arbitrator before receiving notice of the award.

**"§ 1-569.20. Change of award by arbitrator.**

(a) On motion to an arbitrator by a party to an arbitration proceeding, the arbitrator may modify or correct an award:

- (1) Upon a ground stated in G.S. 1-569.24(a)(1) or (a)(3);
- (2) Because the arbitrator had not made a final and definite award upon a claim submitted by the parties to the arbitration proceeding; or
- (3) To clarify the award.

(b) A motion under subsection (a) of this section shall be made and notice given to all parties within 20 days after the moving party receives notice of the award.

(c) A party to the arbitration proceeding shall give notice of any objection to the motion within 10 days after receipt of the notice.

(d) If a motion to the court is pending under G.S. 1-569.22, 1-569.23, or 1-569.24, the court may submit the claim to the arbitrator to consider whether to modify or correct the award:

- (1) Upon a ground stated in G.S. 1-569.24(a)(1) or (a)(3);
- (2) Because the arbitrator had not made a final and definite award upon a claim submitted by the parties to the arbitration proceeding; or
- (3) To clarify the award.

(e) An award modified or corrected pursuant to this section is subject to G.S. 1-569.19(a), 1-569.22, 1-569.23, and 1-569.24.

**"§ 1-569.21. Remedies; fees and expenses of arbitration proceeding.**

(a) An arbitrator may award punitive damages or other exemplary relief if:

- (1) The arbitration agreement provides for an award of punitive damages or exemplary relief;
- (2) An award for punitive damages or other exemplary relief is authorized by law in a civil action involving the same claim; and
- (3) The evidence produced at the hearing justifies the award under the legal standards otherwise applicable to the claim.

(b) An arbitrator may award reasonable expenses of arbitration if an award of expenses is authorized by law in a civil action involving the same claim or by the agreement of the parties to the arbitration proceeding. An arbitrator may award reasonable attorneys' fees if:

- (1) The arbitration agreement provides for an award of attorneys' fees; and
- (2) An award of attorneys' fees is authorized by law in a civil action involving the same claim.

(c) As to all remedies other than those authorized by subsections (a) and (b) of this section, an arbitrator may order any remedies the arbitrator considers just and appropriate under the circumstances of the arbitration proceeding. The fact that a remedy could not or would not be granted by the court is not a ground for refusing to confirm an award under G.S. 1-569.22 or for vacating an award under G.S. 1-569.23.

(d) An arbitrator's expenses and fees, together with other expenses, shall be paid as provided in the award.

(e) If an arbitrator awards punitive damages or other exemplary relief under subsection (a) of this section, the arbitrator shall specify in the award the basis in fact justifying and the basis in law authorizing the award and state separately the amount of the punitive damages or other exemplary relief.

**"§ 1-569.22. Confirmation of award.**

After a party to an arbitration receives notice of an award, the party may make a motion to the court for an order confirming the award. Upon motion of a party for an order confirming the award, the court shall issue a confirming order unless the award is modified or corrected pursuant to G.S. 1-569.20 or G.S. 1-569.24 or is vacated pursuant to G.S. 1-569.23.

**"§ 1-569.23. Vacating award.**

(a) Upon motion to the court by a party to an arbitration proceeding, the court shall vacate an award made in the arbitration proceeding if:

- (1) The award was procured by corruption, fraud, or other undue means;
- (2) There was:
  - a. Evident partiality by an arbitrator appointed as a neutral arbitrator;
  - b. Corruption by an arbitrator; or
  - c. Misconduct by an arbitrator prejudicing the rights of a party to the arbitration proceeding;
- (3) An arbitrator refused to postpone the hearing upon a showing of sufficient cause for postponement, refused to consider evidence material to the controversy, or otherwise conducted the hearing contrary to G.S. 1-569.15 so as to prejudice substantially the rights of a party to the arbitration proceeding;
- (4) An arbitrator exceeded the arbitrator's powers;
- (5) There was no agreement to arbitrate, unless the person participated in the arbitration proceeding without raising the objection under G.S. 1-569.15(c) no later than the beginning of the arbitration hearing; or
- (6) The arbitration was conducted without proper notice of the initiation of an arbitration as required in G.S. 1-569.9 so as to prejudice substantially the rights of a party to the arbitration proceeding.

(b) A motion under this section shall be filed within 90 days after the moving party receives notice of the award pursuant to G.S. 1-569.19 or within 90 days after the moving party receives notice of a modified or corrected award pursuant to G.S.

1-569.20, unless the moving party alleges that the award was procured by corruption, fraud, or other undue means, in which case the motion shall be made within 90 days after the ground is known, or by the exercise of reasonable care would have been known, by the moving party.

(c) If the court vacates an award on a ground other than that set forth in subdivision (a)(5) of this section, it may order a rehearing. If the award is vacated on a ground stated in subdivision (1) or (2) of subsection (a) of this section, the rehearing shall be before a new arbitrator. If the award is vacated on a ground stated in subdivision (3), (4), or (6) of subsection (a) of this section, the rehearing may be held before the arbitrator who made the award or the arbitrator's successor. The arbitrator shall render the decision in the rehearing within the same time as the time provided in G.S. 1-569.19(b) for an award.

(d) If the court denies a motion to vacate an award, it shall confirm the award unless a motion to modify or correct the award pursuant to G.S. 1-569.24 is pending.

**"§ 1-569.24. Modification or correction of award.**

(a) Upon motion made within 90 days after the moving party receives notice of the award pursuant to G.S. 1-569.19 or within 90 days after the moving party receives notice of a modified or corrected award pursuant to G.S. 1-569.20, the court shall modify or correct the award if:

- (1) There was an evident mathematical miscalculation or an evident mistake in the description of a person, thing, or property referred to in the award;
- (2) The arbitrator has made an award on a claim not submitted to the arbitrator, and the award may be corrected without affecting the merits of the decision on the claims submitted; or
- (3) The award is imperfect in a matter of form not affecting the merits of the decision on the claims submitted.

(b) If a motion made under subsection (a) of this section is granted, the court shall modify and confirm the award as modified or corrected. Otherwise, unless a motion to vacate is pending, the court shall confirm the award.

(c) A motion to modify or correct an award pursuant to this section may be joined with a motion to vacate the award.

**"§ 1-569.25. Judgment on award; attorneys' fees and litigation expenses.**

(a) Upon granting an order confirming, vacating without directing a rehearing, modifying, or correcting an award, the court shall enter a judgment in conformity with the order. The judgment may be recorded, docketed, and enforced as any other judgment in a civil action.

(b) A court may allow reasonable costs of the motion and subsequent judicial proceedings.

(c) On motion of a prevailing party to a contested judicial proceeding under G.S. 1-569.22, 1-569.23, or 1-569.24, the court may award reasonable attorneys' fees and other reasonable expenses of litigation incurred in a judicial proceeding after the award is made to a judgment confirming, vacating without directing a rehearing, modifying, or correcting an award.

**"§ 1-569.26. Jurisdiction.**

(a) A court of this State having jurisdiction over the controversy and the parties to an agreement to arbitrate may enforce the agreement to arbitrate.

(b) An agreement to arbitrate providing for arbitration in this State confers exclusive jurisdiction on the court to enter judgment on an award under this Article.

**"§ 1-569.27. Venue.**

A motion pursuant to G.S. 1-569.5 shall be made in the court of the county in which the agreement to arbitrate specifies the arbitration hearing is to be held or, if the hearing has been held, in the court of the county in which it was held. Otherwise, the motion may be made in the court of any county in which an adverse party resides or has a place of business or, if no adverse party has a residence or place of business in this State, in the court of any county in this State. All subsequent motions shall be made in the court hearing the initial motion unless the court otherwise directs.

**"§ 1-569.28. Appeals.**

(a) An appeal may be taken from:

- (1) An order denying a motion to compel arbitration;
- (2) An order granting a motion to stay arbitration;
- (3) An order confirming or denying confirmation of an award;
- (4) An order modifying or correcting an award;
- (5) An order vacating an award without directing a rehearing; or
- (6) A final judgment entered pursuant to this Article.

(b) An appeal under this section shall be taken as from an order or a judgment in a civil action.

**"§ 1-569.29. Uniformity of application and construction.**

In applying and construing this Article, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

**"§ 1-569.30. Relationship to federal Electronic Signatures in Global and National Commerce Act.**

The provisions of this Article governing the legal effect, validity, and enforceability of electronic records or electronic signatures, and of contracts performed with the use of these records or signatures, conform to the requirements of section 102 of the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. § 7001, et seq., or as otherwise authorized by federal or State law governing these electronic records or electronic signatures.

**"§ 1-569.31. Short title.**

This Article may be cited as the Revised Uniform Arbitration Act."

**SECTION 3.** G.S. 1-567.64 reads as rewritten:

**"§ 1-567.64. Modifying or vacating of awards.**

Subject to the relevant provisions of federal law or any applicable international agreement in force between the United States of America and any other nation or nations, an arbitral award may be vacated by a court only upon a showing that the award is tainted by illegality, or substantial unfairness in the conduct of the arbitral proceedings. In determining whether an award is so tainted, the superior court shall have regard to the provisions of this Article, and of ~~G.S. 1-567.13 and G.S. 1-567.14,~~ G.S. 1-569.23 and G.S. 1-569.24, but shall not engage in de novo review of the subject matter of the dispute giving rise to the arbitration proceedings."

**SECTION 4.** This act becomes effective January 1, 2004, and applies to agreements to arbitrate made on or after that date. Agreements to arbitrate made before January 1, 2004, shall be governed by Article 45A of Chapter 1 of the General Statutes, subject to the provisions of G.S. 1-569.3(b) as enacted in this act.

In the General Assembly read three times and ratified this the 14<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 1:39 p.m. on the 27<sup>th</sup> day of July, 2003.

**H.B. 1074****Session Law 2003-346**

AN ACT TO REVISE A STATUTE TO CREATE A BUTNER ADVISORY COUNCIL SO AS TO ELECT ALL MEMBERS AT LARGE IN ONE MULTISEAT RACE AND ELIMINATE STAGGERED TERMS; TO DEFINE THE ELECTORAL JURISDICTION OF THE COUNCIL AND THE JURISDICTION OF SPECIAL POLICE OF THE DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY; TO AMEND THE LEGISLATION IN OTHER NEEDED WAYS; AND TO CORRECT THE BOUNDARY BETWEEN THE NASH-ROCKY MOUNT SCHOOL ADMINISTRATIVE UNIT AND THE EDGEcombe COUNTY PUBLIC SCHOOL SYSTEM.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 122C-413 reads as rewritten:

"§ 122C-413. **Butner Advisory Council; created.**

(a) There is created a Butner Advisory Council to consist of seven members, to be elected by the residents of the ~~territorial jurisdiction established by G.S. 122C-408(a)~~, Butner Advisory Council Jurisdiction. The Butner Advisory Council Jurisdiction shall consist of the property shown on a map produced May 20, 2003, by the Information Systems Division of the North Carolina General Assembly and kept on file in the office of the Butner Town Manager and in the office of the Granville County Board of Elections. The Butner Advisory Council shall be elected at a nonpartisan election pursuant to G.S. 163-292 administered by the Granville County Board of Elections to be set after preclearance from the federal Department of Justice held in the first odd-numbered year after preclearance under section 5 of the Voting Rights Act of 1965 is obtained. The Granville County Board of Elections may change the dates of the candidate-filing period for the first election if preclearance is not obtained before the statutory filing period begins.

(a1) Any resident of Butner who is also a resident of Durham County shall vote, as if the voter were a Granville County resident, in any Butner election at a location in the Granville County portion of Butner designated by the Granville County Board of Elections or by absentee ballot if absentee voting is authorized by the Secretary. As soon as possible after the close of registration for the election, the Durham County Board of Elections shall send the Granville County Board of Elections any information necessary to conduct the election, including all of the following:

- (1) A set of mailing labels for all registered voters in Durham County who are eligible to vote in the Butner election.
- (2) A list of all registered voters in Durham County who are eligible to vote in the Butner election.
- (3) An official precinct roster to be used by the Granville County Board of Elections to verify the eligibility to vote of persons presenting themselves to vote in the election.

The Granville County Board of Elections shall mark on the official roster provided by Durham County all those voters who vote in the election. Promptly after the election,



the Granville County Board of Elections shall return the roster to the Durham County Board of Elections so it can update voter history for the Butner voters who are residents of Durham County.

(b) ~~Members~~All members of the Butner Advisory Council shall be elected at ~~large, large in one multiseat race,~~ and the election shall be held in accordance with all applicable federal and State constitutional and statutory provisions, including the Voting Rights Act of 1965. For the purpose of elections under this Part, the jurisdiction shall be considered a city under Chapters 160A and 163 of the General Statutes. ~~Statutes, with the Secretary, advised by the Advisory Council, acting as the governing body of the city. Part 4 of Article 5 of Chapter 160A of the General Statutes does not apply to Butner.~~ In accordance with North Carolina law, a candidate for the Butner Advisory Council must be a registered voter and a resident of the territorial jurisdiction established by G.S. 122C-408(a). Butner Advisory Council Jurisdiction, as shown on a map produced May 20, 2003, by the Information Systems Division of the North Carolina General Assembly and kept on file in the office of the Butner Town Manager and in the office of the Granville County Board of Elections.

(c) The candidates for the Butner Advisory Council shall file their notices of candidacy and any required campaign finance report with the Granville County Board of Elections. ~~Elections, regardless of whether they live in the Granville or Durham County portion of the jurisdiction. The Secretary, with the advice of the Advisory Council, shall determine whether to authorize Absentee-absentee voting by qualified voters residing in the territorial jurisdiction shall be in accordance with G.S. 163-302. The filing fee shall be ten dollars (\$10.00) for the first election of the Butner Advisory Council. In subsequent elections, the Secretary, with the advice of the Advisory Council, shall set the filing fee using the procedure in G.S. 163-294.2(e).~~

(d) The seven candidates receiving the highest numbers of votes shall be elected ~~for the following terms: four-year terms.~~

- (1) ~~If the election is held in an even-numbered year, the four candidates receiving the highest numbers of votes shall be elected for terms of four years, and the three candidates receiving the next highest numbers of votes shall be elected for terms of two years.~~
- (2) ~~If the election is held in an odd-numbered year, the four candidates receiving the highest numbers of votes shall be elected for terms of five years, and the three candidates receiving the next highest numbers of votes shall be elected for terms of three years.~~

~~Biennially thereafter, in each even-numbered year, the members whose terms expire shall be elected to four-year terms.~~

(d1) The Department of Health and Human Services shall reimburse the Granville County Board of Elections and, if necessary, the Durham County Board of Elections for the actual cost of administering the election of the Butner Advisory Council according to the provisions of G.S. 163-284 as if Butner were a city. Reimbursement shall not come from General Fund appropriations or federal funds.

(e) The Chair of the Butner Advisory Council shall be elected from among its members, shall serve a one-year term, may be reelected, and shall serve at the pleasure of the council.

(f) The Butner Advisory Council shall comply with the applicable and relevant

provisions of Parts 1, 2, and 3 of Article 5 of Chapter 160A of the General Statutes with respect to the filling of vacancies and the organization and procedures of the council as if it were a city. Only those provisions of those Parts that are consistent with an advisory council are applicable and relevant to the Butner Advisory Council.

(g) Neither the Secretary nor the Butner Advisory Council shall have any authority over the Lyons Station Sanitary District, except as relates to fire and public safety protection, as provided in Chapter 830 of the 1983 Session Laws and G.S. 122C-408."

**SECTION 2.** G.S. 122C-408(a) reads as rewritten:

"(a) The Secretary of Crime Control and Public Safety may employ special police officers for the territory of the ~~Camp Butner reservation~~. Butner Advisory Council Jurisdiction. The territorial jurisdiction of these special police officers ~~shall include: (i) the Camp Butner reservation; (ii) the Lyons Station Sanitary District; and (iii) that part of Granville County adjoining the Butner reservation and the Lyons Station Sanitary District situated north and west of the intersection of Rural Paved Roads 1103 and 1106 and bounded by those roads and the boundaries of the reservation and the sanitary district.~~ shall be the Butner Advisory Council Jurisdiction, as defined in G.S. 122C-413(a). The Secretary of Crime Control and Public Safety may organize these special police officers into a public safety department for that territory and may establish it as a division within that principal department as permitted by Chapter 143B of the General Statutes."

**SECTION 3.** Section 1(a) of Chapter 830 of the 1983 Session Laws reads as rewritten:

"**Section 1.(a)** The territorial jurisdiction of the Butner Police and Fire Protection District shall ~~include: (i) any property formerly a part of the original Camp Butner reservation, including both those areas currently owned and occupied by the State and its agencies and those which may have been leased or otherwise disposed of by the State; (ii) the Lyons Station Sanitary District; and (iii) that part of Granville County adjoining the Butner reservation and the Lyons Station Sanitary District situated north and west of the intersection of Rural Paved Roads 1103 and 1106 and bounded by those roads and the boundaries of said reservation and said sanitary district.~~ be the Butner Advisory Council Jurisdiction, as defined in G.S. 122C-413(a)."

**SECTION 4.** To reflect the boundary agreed on by the Nash-Rocky Mount Board of Education at its November 4, 2002, meeting and by the Edgecombe County Board of Education at its May 12, 2003, meeting, Chapter 391 of the 1991 Session Laws is amended by adding a new section to read:

"**Sec. 3.1.** Except as follows, the county line between Nash and Edgecombe Counties shall be the boundary line between the Nash-Rocky Mount School Administrative Unit and the Edgecombe County Public School System (as renamed by S.L. 2003-125):

Beginning in southeast Rocky Mount the boundary between the two school units shall go east from the county line at the intersection of Kingston Avenue and Sutton Road, following Little Cokey Swamp Creek to Old Wilson Road, then north on Old Wilson Road to its intersection with Proctor Street, then diagonally northeast from the intersection of Old Wilson Road and Proctor Street across undeveloped land to the intersection of Cokey Road and Pitt Street, then northwest on Cokey Road to the Norfolk Railroad tracks, then east along the railroad tracks to Glendale Avenue, then north on South Glendale Avenue to its intersection with Melody Lane, then east on

Melody Lane to its intersection with Ashland Avenue, then north on Ashland Avenue to its intersection with Rosewood Avenue, then east on Rosewood Avenue to its intersection with Courtland Avenue, then north on Courtland Avenue to its intersection with Vernon Road, then east on Vernon Road to its intersection with Meadowbrook Road, then northwest on Meadowbrook Road to its intersection with Business US64 (North Raleigh Street), then west on Business US64 (North Raleigh Street) to its intersection with Stokes Street, then north on Stokes Street to its intersection with King Circle, then east and north on King Circle to its intersection with Barnes Street, then north on Barnes Street to its intersection with Charter Drive, then east on Charter Drive to its intersection with Anne Street, then north on Anne Street to its intersection with Cherry Street, then east on Cherry Street to its intersection with Harper Street, then north on Harper Street to its intersection with Leggett Road, then west and southwest on Leggett Road to the underpass at Bypass US64, then west on Bypass US64 to the Nash-Edgecombe County line."

**SECTION 5.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 10<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 1:40 p.m. on the 27<sup>th</sup> day of July, 2003.

**S.B. 592**

**Session Law 2003-347**

AN ACT AUTHORIZING THE NORTH CAROLINA STATE BOARD OF EXAMINERS FOR ENGINEERS AND SURVEYORS TO ACQUIRE REAL PROPERTY, AND TO INCREASE THE CIVIL PENALTY ON ENGINEERS FROM TWO THOUSAND DOLLARS TO FIVE THOUSAND DOLLARS FOR VIOLATIONS OF THE NORTH CAROLINA ENGINEERING AND LAND SURVEYING ACT AND CLARIFYING THE REINSTATEMENT REQUIREMENTS UNDER THE ACT.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 89C-10 is amended by adding the following new subsection to read:

"(i) The Board shall have the power to acquire, hold, rent, encumber, alienate, and otherwise deal with real property in the same manner as a private person or corporation, subject only to approval of the Governor and the Council of State. Collateral pledged by the Board for an encumbrance is limited to the assets, income, and revenues of the Board."

**SECTION 2.** G.S. 89C-21(c) reads as rewritten:

"(c) The Board may levy a civil penalty not in excess of ~~two thousand dollars (\$2,000)~~ five thousand dollars (\$5,000) for any engineer or not in excess of two thousand dollars (\$2,000) for any land surveyor who violates any of the provisions of subdivisions (1) through (4) of subsection (a) of this section. The clear proceeds of all civil penalties collected by the Board, including civil penalties collected pursuant to G.S. 89C-22(c), shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

**SECTION 3.** G.S. 89C-17 reads as rewritten:**"§ 89C-17. Expirations and renewals of certificates.**

Certificates for licensure of corporations and business firms that engage in the practice of engineering or land surveying shall expire on the last day of the month of June following their issuance or renewal and shall become invalid on that date unless renewed. All other certificates for licensure shall expire on the last day of the month of December next following their issuance or renewal, and shall become invalid on that date unless renewed. When necessary to protect the public health, safety, or welfare, the Board shall require any evidence necessary to establish the continuing competency of engineers and land surveyors as a condition of renewal of licenses. When the Board is satisfied as to the continuing competency of an applicant, it shall issue a renewal of the certificate upon payment by the applicant of a fee fixed by the Board but not to exceed seventy-five dollars (\$75.00). The secretary of the Board shall notify by mail every person licensed under this Chapter of the date of expiration of the certificate, the amount of the fee required for its renewal for one year, and any requirement as to evidence of continued competency. The notice shall be mailed at least one month in advance of the expiration date of the certificate. Renewal shall be effected at any time during the month immediately following the month of expiration, by payment to the secretary of the Board of a renewal fee, as determined by the Board, which shall not exceed seventy-five dollars (\$75.00). Failure on the part of any ~~registrant-licensee~~ to renew the certificate annually in the month immediately following the month of expiration, as required above, shall deprive the ~~registrant-licensee~~ of the right to practice until ~~renewal has been effected. Renewal may be effected at any time during the first 12 months immediately following its invalidation by payment of the established renewal fee and a late penalty of one hundred dollars (\$100.00)-reinstatement of the license. The license may be reinstated at anytime during the first 12 months immediately following the date the license became invalid by payment of a reinstatement fee of one hundred dollars (\$100.00) in addition to the established renewal fee.~~ Failure of a licensee to ~~renew-reinstate the license for a period of 12 months~~ renew-reinstate the license for a period of 12 months during the first 12 months immediately following the date the license became invalid shall require the individual, prior to resuming practice in North Carolina, to submit an application on the prescribed form, and to meet all other requirements for licensure as set forth in Chapter 89C. The secretary of the Board is instructed to remove from the official roster of engineers and land surveyors the names of all licensees who have not effected their renewal by the first day of the month immediately following the renewal period. The Board may adopt rules to provide for renewals in distress or hardship cases due to military service, prolonged illness, or prolonged absence from the State, where the applicant for renewal demonstrates to the Board that the applicant has maintained active knowledge and professional status as an engineer or land surveyor, as the case may be. It shall be the responsibility of each licensee to inform the Board promptly concerning change in address. A licensee may request and be granted inactive status. No inactive licensee may practice in this State unless otherwise exempted in this Chapter. A licensee granted inactive status shall pay annual renewal fees but shall not be subject to annual continuing professional competency requirements. A licensee granted inactive status may return to active status by meeting all requirements of the Board, including demonstration of continuing professional competency as a condition of reinstatement."

**SECTION 4.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 10<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 1:41 p.m. on the 27<sup>th</sup> day of July, 2003.

**S.B. 800**

**Session Law 2003-348**

**AN ACT TO INCREASE THE MAXIMUM FEES THAT THE NORTH CAROLINA STATE BOARD OF DENTAL EXAMINERS MAY ASSESS AND MAKE CHANGES TO THE MASSAGE AND BODYWORK THERAPY LAWS.**

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 90-39 reads as rewritten:

**"§ 90-39. Fees.**

In order to provide the means of carrying out and enforcing the provisions of this Article and the duties devolving upon the North Carolina State Board of Dental Examiners, it is authorized to charge and collect fees established by its rules not exceeding the following:

- (1) Each application for general dentistry examination.....~~\$500.00~~ \$1,200
- (2) Each general dentistry license renewal, which fee shall be annually fixed by the Board and not later than November 30 of each year it shall give written notice of the amount of the renewal fee to each dentist licensed to practice in this State by mailing such notice to the last address of record with the Board of each such dentist..... ~~140.00~~ 600.00
- (2a) Penalty for late renewal of any license or permit ..... ~~50.00~~ 100.00
- (3) Each provisional license ..... ~~150.00~~ 300.00
- (4) Each intern permit or renewal thereof ..... ~~150.00~~ 500.00
- (5) Each certificate of license to a resident dentist desiring to change to another state or territory..... ~~30.00~~ 75.00
- (6) Repealed by Session Laws 1995, (Reg. Sess., 1996), c. 584, s. 1.
- (7) Each license to resume the practice issued to a dentist who has retired from and returned to this State ..... ~~300.00~~ 500.00
- (8) Each instructor's license or renewal thereof ..... ~~140.00~~ 500.00
- (9) With each renewal of a dentistry license, an annual fee to help fund special peer review organizations for impaired dentists..... ~~50.00~~ 100.00
- (10) Each duplicate of any license, permit, or certificate issued by the Board ..... ~~25.00~~ 75.00
- (11) Each office inspection for general anesthesia and parenteral sedation permits ..... ~~350.00~~ 750.00
- (12) Each general anesthesia and parenteral sedation permit application or renewal of permit..... ~~50.00~~ 100.00
- (13) Each application for license by credentials ..... ~~2,000.00~~ 3,000
- (14) Each application for limited volunteer dental license ..... ~~100.00~~ 200.00
- (15) Each limited volunteer dental license annual renewal ..... ~~25.00~~ 50.00."

**SECTION 2.** G.S. 90-232 reads as rewritten:

**"§ 90-232. Fees.**

In order to provide the means of carrying out and enforcing the provisions of this Article and the duties devolving upon the North Carolina State Board of Dental Examiners, it is authorized to charge and collect fees established by its rules not exceeding the following:

- |     |   |                      |                 |
|-----|---|----------------------|-----------------|
| (1) | Each applicant for examination .....  | <del>\$125.00</del>  | <u>\$350.00</u> |
| (2) | Each renewal certificate, which fee shall be annually fixed by the Board and not later than November 30 of each year it shall give written notice of the amount of the renewal fee to each dental hygienist licensed to practice in this State by mailing such notice to the last address of record with the Board of each such dental hygienist..... | <del>60.00</del>     | <u>250.00</u>   |
| (3) | Each restoration of license.....  | <del>60.00</del>     | <u>150.00</u>   |
| (4) | Each provisional license .....  | <del>60.00</del>     | <u>150.00</u>   |
| (5) | Each certificate of license to a resident dental hygienist desiring to change to another state or territory .....   | <del>25.00</del>     | <u>50.00</u>    |
| (6) | Annual fee to be paid upon license renewal to assist in funding programs for impaired dental hygienists .....   | <del>40.00</del>     | <u>80.00</u>    |
| (7) | Each license by credentials.....  | <del>1,000.00.</del> | <u>1,500.</u>   |

In no event may the annual fee imposed on dental hygienists to fund the impaired dental hygienists program exceed the annual fee imposed on dentists to fund the impaired dentist program. All fees shall be payable in advance to the Board and shall be disposed of by the Board in the discharge of its duties under this Article."

**SECTION 3.** G.S. 90-626 is amended by adding the following new subdivisions to read:

" ...

(14) Assess civil penalties pursuant to G.S. 90-634.1.

(15) Assess the costs of disciplinary actions pursuant to G.S. 90-634.1(d)."

**SECTION 4.** Article 36 of Chapter 90 of the General Statutes is amended by adding a new section to read:

**"§ 90-634.1. Civil penalties; disciplinary costs.**

(a) Authority to Assess Civil Penalties. – The Board may assess a civil penalty not in excess of one thousand dollars (\$1,000) for the violation of any section of this Article or the violation of any rules adopted by the Board. The clear proceeds of any civil penalty assessed under this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(b) Consideration Factors. – Before imposing and assessing a civil penalty, the Board shall consider the following factors:

- (1) The nature, gravity, and persistence of the particular violation.
- (2) The appropriateness of the imposition of a civil penalty when considered alone or in combination with other punishment.
- (3) Whether the violation was willful and malicious.
- (4) Any other factors that would tend to mitigate or aggravate the violations found to exist.

(c) Schedule of Civil Penalties. – The Board shall establish a schedule of civil penalties for violations of this Article and rules adopted by the Board.

(d) Costs. – The Board may assess the costs of disciplinary actions against a person found to be in violation of this Article or rules adopted by the Board."

**SECTION 5.** Sections 1 and 2 of this act become effective August 1, 2003. Sections 3 and 4 of this act become effective August 1, 2003, and apply to violations occurring on or after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 15<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 1:42 p.m. on the 27<sup>th</sup> day of July, 2003.

**S.B. 236****Session Law 2003-349**

AN ACT TO MODIFY THE DIVIDEND RECEIVED DEDUCTION FOR REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS TO ENSURE THAT ALL DIVIDENDS ARE TREATED UNIFORMLY, TO EXTEND FOR TWO YEARS THE DEPARTMENT OF REVENUE'S AUTHORITY TO OUTSOURCE THE COLLECTION OF IN-STATE TAX DEBTS, TO AMEND THE MOTOR FUEL TAX LAWS, AND TO MAKE VARIOUS ADMINISTRATIVE CHANGES IN THE TAX LAWS.

*The General Assembly of North Carolina enacts:*

**PART 1. MODIFY DIVIDEND RECEIVED DEDUCTION FOR RICs AND REITs.**

**SECTION 1.1.** G.S. 105-130.7 and G.S. 105-130.5(b)(3) are repealed.

**SECTION 1.2.** G.S. 105-130.4(c) reads as rewritten:

"(c) Rents and royalties from real or tangible personal property, gains and losses, interest, ~~dividends less the portion deductible under G.S. 105-130.7,~~ dividends, patent and copyright royalties and other kinds of income, to the extent that they constitute nonbusiness income, less related expenses shall be allocated as provided in subsections (d) through (h) of this section."

**SECTION 1.3.** G.S. 105-130.4(f) reads as rewritten:

"(f) Interest and net dividends are allocable to this State if the corporation's commercial domicile is in this State. For purposes of this section, the term "net dividends" means gross dividend income received less related ~~expenses and less that portion of the dividends deductible under G.S. 105-130.7.~~ expenses."

**PART 2. AVOID DUPLICATIVE REPORTING REQUIREMENTS REGARDING SALES OF SEIZED PROPERTY.**

**SECTION 2.** G.S. 105-242(a)(2) reads as rewritten:

"(2) The Secretary may issue a warrant or order under the Secretary's hand and seal to any revenue officer or other employee of the Department of Revenue charged with the duty to collect taxes, commanding the officer or employee to levy upon and sell the taxpayer's personal property, including that described in G.S. 105-366(d), found within the State for the payment of the tax, including penalties and interest. Except as otherwise provided in this subdivision, the levy upon the sale of personal property shall be governed by the laws regulating levy and sale under execution. The person to whom the warrant is directed shall proceed to levy upon and sell the personal property subject to levy in the same manner and with the same powers and authority normally exercised by sheriffs in levying upon and selling personal

property under execution, except that the property may be sold in any county, in the discretion of the Secretary. In addition to the notice of sale required by the laws governing sale of property levied upon under execution, the Secretary may advertise the sale in any reasonable manner and for any reasonable period of time to produce an adequate bid for the property. Levy and sale fees, plus actual advertising costs, shall be added to and collected in the same manner as taxes. The Secretary is not required to file a report of sale with the clerk of superior court, as required by the laws governing sale of property levied upon under execution, if the sale is otherwise publicly reported."

**PART 3. EXTEND AUTHORITY TO CONTINUE USING OUTSIDE COLLECTION AGENCIES.**

**SECTION 3.** Section 9 of S.L. 2001-380 reads as rewritten:

"**SECTION 9.** Section 3 of this act becomes effective November 1, 2001. Section 6 of this act is effective on and after July 1, 2001. Section 8 of this act becomes effective ~~October 1, 2003.~~ October 1, 2005. The remainder of this act is effective when it becomes law and applies to tax debts that remain unpaid on or after that date."

**PART 4. REVISE SECRECY PROVISION TO REFLECT TRANSFER OF DMV ENFORCEMENT TO THE DIVISION OF THE STATE HIGHWAY PATROL.**

**SECTION 4.** G.S. 105-259(b)(7) reads as rewritten:

"(7) To exchange information with the ~~Division of Motor Vehicles of the Department of Transportation~~ Division of the State Highway Patrol of the Department of Crime Control and Public Safety or the International Fuel Tax Association, Inc., when the information is needed to fulfill a duty imposed on the Department of Revenue or the ~~Division of Motor Vehicles~~ Division of the State Highway Patrol of the Department of Crime Control and Public Safety."

**PART 5. BASE LOCAL SALES TAX DISTRIBUTIONS ON TAXPAYER DATA.**

**SECTION 5.** G.S. 105-472(a) reads as rewritten:

"(a) County Allocation. – The Secretary shall, on a monthly basis, allocate to each taxing county for which the Secretary collects the tax the net proceeds of the tax collected in that county under this Article. For the purpose of this section, "net proceeds" means the gross proceeds of the tax collected in each county under this Article less taxes refunded, the cost to the State of collecting and administering the tax in the county as determined by the Secretary, and other deductions that may be charged to the county. If the Secretary collects local sales or use taxes in a month and the taxes cannot be identified as being attributable to a particular taxing county, the Secretary shall allocate the taxes among the taxing counties in proportion to the amount of taxes collected in each county under this Article during that month and shall include them in the monthly distribution. Amounts collected by electronic funds transfer payments are included in the distribution for the month in which the return that applies to the payment is received."

**PART 6. SIMPLIFY PROCEDURE FOR HOLD HARMLESS CALCULATION.**

**SECTION 6.** G.S. 105-521(b), as amended by Section 37.1 of S.L. 2003-284, reads as rewritten:



"(b) Distributions. – On or before August 15, 2003, and August 15, 2004, the Secretary must multiply each local government's local sales tax share by the estimated amount that all local governments would be expected to receive during the current fiscal year under G.S. 105-520 if every county levied the tax under this Article for the year. If the resulting amount is less than one hundred percent (100%) of the local government's repealed reimbursement amount, the Secretary must pay the local government the difference, but not less than one hundred dollars (\$100.00).

On or before May 1, 2003, and May 1, 2004, the ~~Office of State Budget and Management~~ Department of Revenue and the Fiscal Research Division of the General Assembly must each submit to the Secretary and to the General Assembly a final projection of the estimated amount that all local governments would be expected to receive during the upcoming fiscal year under G.S. 105-520 if every county levied the tax under this Article for the fiscal year. If, after May 1 and before a distribution is made, a law is enacted that would affect the projection, an updated projection must be submitted as soon as practicable. If the Secretary does not use the lower of the two final projections to make the calculation required by this subsection, the Secretary must report the reasons for this decision to the Joint Legislative Commission on Governmental Operations within 60 days after receiving the projections."

**PART 7. CLARIFY THAT THE FILING FEE FOR AN ANNUAL REPORT IS NONREFUNDABLE.**

**SECTION 7.** G.S. 55-1-22 is amended by adding a new subsection to read:

"(d) The fee for the annual report in subdivision (23) of this section is nonrefundable."

**PART 8. CLARIFY ELIGIBILITY FOR R&D CREDIT.**

**SECTION 8.1.** G.S. 105-129.4(a) is amended by adding a new subdivision to read:

- "(7) Research and development. – For the purpose of determining eligibility under this subsection for the credit for research and development in G.S. 105-129.10, the following special rules apply:
- a. If the primary activity of an establishment of the taxpayer in this State is computer services, the taxpayer's qualified research expenditures in this State are considered to be used in computer services.
  - b. For all other taxpayers, the taxpayer's qualified research expenditures in this State are considered to be used in the primary business of the taxpayer."

**SECTION 8.2.** The General Assembly finds that the amendment to G.S. 105-129.4 made by this Part clarifies the intent of the existing law and does not represent a change in the law. Accordingly, G.S. 105-129.4(a)(7)a. applies to taxable years beginning on or after January 1, 2001, and G.S. 105-129.4(a)(7)b. applies to taxable years beginning on or after January 1, 1996.

**PART 9. REVENUE LAWS TO STUDY DATA NEEDED TO ESTIMATE IMPACT OF CONSOLIDATED RETURNS.**

**SECTION 9.** The Revenue Laws Study Committee shall establish a study group composed of State tax professionals from accounting firms and representatives of the Department of Revenue to work together on gathering appropriate data to conduct an analysis of the potential revenue impact of modifying the corporate income tax law to require consolidated returns.

**PART 10. MOTOR FUEL TAX CHANGES.**

**SECTION 10.1.** G.S. 105-449.49 reads as rewritten:

**"§ 105-449.49. Temporary permits.**

Upon application to the Secretary and payment of a fee of fifty dollars (\$50.00), a motor carrier may obtain a temporary permit authorizing the carrier to operate a vehicle in the State without registering the vehicle in accordance with G.S. 105-449.47 for not more than ~~20~~three days. A motor carrier to whom a temporary permit has been issued may elect not to report its operation of the vehicle during the ~~20-day~~three-day period. The Secretary may refuse to issue a temporary permit to any of the following:

- (1) A motor carrier whose registration has been withheld or revoked.
- (2) A motor carrier who the Secretary determines is evading payment of tax through the successive purchase of temporary permits."

**SECTION 10.2.** G.S. 105-449.60(33) reads as rewritten:

"(33) Tank wagon. – A truck that is not a transport truck and ~~has a compartment~~is designed or used to carry at least 1,000 gallons of motor fuel."

**SECTION 10.3.** G.S. 105-449.65(a) reads as rewritten:

"(a) License. – A person may not engage in business in this State as any of the following unless the person has a license issued by the Secretary authorizing the person to engage in that business:

- (1) A refiner.
- (2) A supplier.
- (3) A terminal operator.
- (4) An importer.
- (5) An exporter.
- (6) A blender.
- (7) A motor fuel transporter.
- (8) Repealed by Session Laws 1999-438, s. 20.
- (9) Repealed by Session Laws 1999-438, s. 21.
- (10) A distributor who purchases motor fuel from an elective or permissive supplier at an out-of-state terminal for import into this State."

**SECTION 10.4.** G.S. 105-449.67 reads as rewritten:

**"§ 105-449.67. List of persons who may obtain a license.**

A person who is engaged in business as any of the following may obtain a license issued by the Secretary for that business:

- (1) ~~A distributor.~~ A distributor who is not required to be licensed under G.S. 105-449.65.
- (2) A permissive supplier."

**SECTION 10.5.** G.S. 105-449.69(d) and (e) read as rewritten:

"(d) Import Activity. – An applicant for a license as an importer or as a distributor must list on the application each state from which the applicant intends to import motor fuel and, if required by a state listed, must be licensed or registered for motor fuel tax purposes in that state. If a state listed requires the applicant to be licensed or registered, the applicant must give the applicant's license or registration number in that state.

~~A license holder that intends to import motor fuel from a state not listed on the license holder's application for an importer's license or a distributor's license must give the Secretary written notice of the change before importing motor fuel from that state. The notice must include the information that is required on the license application.~~

(e) Export Activity. – An applicant for a license as an exporter must designate an agent located in North Carolina for service of process and must give the agent's name and address. An applicant for a license as an exporter or as a distributor must list on the application each state to which the applicant intends to export motor fuel received in this State by means of a transfer that is outside the terminal transfer system and, if required by a state listed, must be licensed or registered for motor fuel tax purposes in that state. If a state listed requires the applicant to be licensed or registered, the applicant must give the applicant's license or registration number in that state.

~~A license holder that intends to export motor fuel to a state not listed on the license holder's application for an exporter's license or a distributor's license must give the Secretary written notice of the change before exporting motor fuel to that state. The notice must include the information that is required on the license application."~~

**SECTION 10.6.** G.S. 105-449.72(a)(2) reads as rewritten:

"(a) Initial Bond. – An applicant for a license as a refiner, a terminal operator, a supplier, an importer, a blender, a permissive supplier, or a distributor must file with the Secretary a bond or an irrevocable letter of credit. A bond must be conditioned upon compliance with the requirements of this Article, be payable to the State, and be in the form required by the Secretary. The amount of the bond or irrevocable letter of credit is determined as follows:

- ...
- (2) For an applicant for a license as any of the following, the amount is two times the applicant's average expected monthly tax liability under this Article, as determined by the Secretary. The amount may not be less than two thousand dollars (\$2,000) and may not be more than ~~two hundred fifty thousand dollars (\$250,000)~~five hundred thousand dollars (\$500,000):
- a. A supplier that is a fuel alcohol provider or a biodiesel provider but is neither a position holder nor a person that receives motor fuel pursuant to a two-party exchange.
  - b. An occasional importer.
  - c. A tank wagon importer.
  - d. A distributor.
  - e. Repealed by Session Laws 1997-60, s. 5, effective October 5, 1997."

**SECTION 10.7.** G.S. 105-449.73 reads as rewritten:

"§ 105-449.73. **Reasons why the Secretary can deny an application for a license.**

The Secretary may refuse to issue a license to an individual applicant that has done any of the following and may refuse to issue a license to an applicant that is a business entity if any principal in the business has done any of the following:

- (1) Had a license or registration issued under this Article or former Article 36 or 36A of this Chapter cancelled by the Secretary for cause.
- (1a) Had a motor fuel license or registration issued by another state cancelled for cause.
- (2) Had a federal Certificate of Registry issued under § 4101 of the Code, or a similar federal authorization, revoked.
- (3) Been convicted of fraud or misrepresentation.
- (4) Been convicted of any other offense that indicates that the applicant may not comply with this Article if issued a license.

- (5) Failed to remit payment for an overdue tax debt under Chapter 105 or Chapter 119 of the General Statutes. The term "overdue tax debt" has the same meaning as defined in G.S. 105-243.1.
- (6) Failed to file a return due under Chapter 105 or Chapter 119 of the General Statutes."

**SECTION 10.8.** G.S. 105-449.86(a)(1) is repealed.

**SECTION 10.9.** G.S. 105-449.115(b) reads as rewritten:

"(b) Content. – A shipping document issued by a terminal operator or the operator of a bulk plant ~~must be machine printed and~~ must contain the following information and any other information required by the Secretary:

- (1) Identification, including address, of the terminal or bulk plant from which the motor fuel was received.
- (2) The date the motor fuel was loaded.
- (3) The gross gallons loaded.
- (4) The destination state of the motor fuel, as represented by the purchaser of the motor fuel or the purchaser's agent.
- (5) If the document is issued by a terminal operator, the document must be machine printed and it must contain the following information:
  - a. The net gallons loaded.
  - b. A tax responsibility statement indicating the name of the supplier that is responsible for the tax due on the motor fuel."

**SECTION 10.10.** G.S. 105-449.117 reads as rewritten:

"§ **105-449.117. Penalties for highway use of dyed diesel or other non-tax-paid fuel.**

(a) Violation. – It is unlawful to use dyed diesel fuel in a highway vehicle that is licensed or required to be licensed under Chapter 20 of the General Statutes unless that use is allowed under section 4082 of the Code. It is unlawful to use undyed diesel fuel in a highway vehicle that is licensed or required to be licensed under Chapter 20 of the General Statutes unless the tax imposed by this Article has been paid. A person who violates this section is guilty of a Class 1 misdemeanor and is liable for a civil penalty.

(b) Civil Penalty. – The civil penalty is payable to the Department of Transportation, Division of Motor Vehicles, or the Department of Revenue and is payable by the person in whose name the highway vehicle is registered. The amount of the penalty depends on the amount of fuel in the supply tank of the highway vehicle. The penalty is the greater of one thousand dollars (\$1,000) or five times the amount of motor fuel tax payable on the fuel in the supply tank. A penalty imposed under this section is in addition to any motor fuel tax assessed.

(c) Enforcement. – The Secretary or a person designated by the Secretary may conduct investigations to identify violations of this Article. It is not a valid defense to a violation of this Article that the State is exempt from the tax imposed by this Article."

**SECTION 10.11.** G.S. 105-449.123(a) reads as rewritten:

"(a) Requirements. – A person who is a retailer of dyed diesel fuel or who stores both dyed and undyed diesel fuel for use by that person or another person must mark the storage facility for the dyed diesel fuel ~~as follows with the phrase "Dyed Diesel", "For Nonhighway Use", or a similar phrase that clearly indicates the diesel fuel is not to be used to operate a highway vehicle:~~ in a manner that clearly indicates the fuel is not to be used to operate a highway vehicle. The storage facility must be marked "Dyed Diesel, Nontaxable Use Only, Penalty For Taxable Use" or "Dyed Kerosene, Nontaxable Use

Only, Penalty for Taxable Use" or a similar phrase that clearly indicates the fuel is not to be used to operate a highway vehicle.

- (1) The storage tank of the storage facility must be marked if the storage tank is visible.
- (2) The fillcap or spill containment box of the storage facility must be marked.
- (3) The dispensing device that serves the storage facility must be marked.
- (4) The retail pump or dispensing device at any level of the distribution system must comply with the marking requirements."

**SECTION 10.12.** G.S. 119-15 is amended by adding the following new subdivisions to read:

**"§ 119-15. Definitions that apply to Article.**

The following definitions apply in this Article:

- ...
- (6) Terminal. – Defined in G.S. 105-449.60.
  - (7) Terminal operator. – Defined in G.S. 105-449.60."

**SECTION 10.13.** G.S. 119-16.2 is repealed.

**SECTION 10.14.** Article 3 of Chapter 119 of the General Statutes is amended by adding the following new sections to read:

**"§ 119-15.1. List of persons who must have a license.**

(a) License. – A person may not engage in business in this State as any of the following unless the person has a license issued by the Secretary authorizing the person to engage in business:

- (1) A kerosene supplier.
- (2) A kerosene distributor.
- (3) A kerosene terminal operator.

(b) Exception. – A kerosene supplier license is not required if the supplier is licensed as a supplier under Part 2 of Article 36C of Chapter 105 of the General Statutes. A kerosene distributor is required to have a kerosene distributor license only if the distributor imports kerosene. Other kerosene distributors may elect to have a kerosene license. A kerosene terminal operator license is not required if the supplier is licensed as a supplier under Part 2 of Article 36C of Chapter 105 of the General Statutes.

**"§ 119-15.2. How to apply for a license.**

To obtain a license, an applicant must file an application with the Secretary of Revenue on a form provided by the Secretary. An application must include the applicant's name, address, federal employer identification number, and any other information required by the Secretary. An applicant must meet the requirements for obtaining a license set out in G.S. 105-449.69(b) and (c).

**"§ 119-15.3. Bond or letter of credit required as a condition of obtaining and keeping certain licenses.**

(a) Initial Bond. – An applicant for a license as a kerosene supplier, kerosene distributor, or kerosene terminal operator must file with the Secretary of Revenue a bond or an irrevocable letter of credit. A bond must be conditioned upon compliance with the requirements of this Article, be payable to the State, and be in the form required by the Secretary. The amount of the bond or irrevocable letter of credit may not be less than five hundred dollars (\$500.00) and may not be more than twenty thousand dollars (\$20,000).

(b) Adjustments to Bond. – When notified by the Secretary of Revenue, a person that has filed a bond or irrevocable letter of credit and that holds a license listed in this Article must file an additional bond or irrevocable letter of credit in the amount requested by the Secretary. The person must file the additional bond or irrevocable letter of credit within 30 days after receiving the notice from the Secretary. The amount of the initial bond or irrevocable letter of credit and the additional bond or irrevocable letter of credit by the license holder, however, may not exceed the limits set in subsection (a) of this section.

(c) Class 1. – A person who fails to comply with this section is guilty of a Class 1 misdemeanor."

**SECTION 10.15.** G.S. 119-18(a) reads as rewritten:

"(a) Tax. – An inspection tax of one fourth of one cent (1/4 of 1¢) per gallon is levied upon all of the ~~following fuel, fuel~~ listed in this subsection regardless of whether the fuel is exempt from the per-gallon excise tax imposed by Article 36C or 36D of Chapter 105 of the General ~~Statutes; Statutes.~~ Statutes. The

- (1) ~~Motor fuel that is not dyed diesel fuel.~~
- (2) ~~Dyed diesel fuel used to operate a highway vehicle.~~
- (3) ~~Alternative fuel used to operate a highway vehicle.~~
- (4) ~~Kerosene.~~

~~The~~ inspection tax on motor fuel is due and payable to the Secretary of Revenue at the same time that the per gallon excise tax on motor fuel is due and payable under Article 36C of Chapter 105 of the General Statutes. The inspection tax on alternative fuel is due and payable to the Secretary of Revenue at the same time that the excise tax on alternative fuel is due and payable under Article 36D of Chapter 105 of the General Statutes. The inspection tax on kerosene is payable monthly to the Secretary by a supplier that is licensed under Part 2 of Article 36C of Chapter 105 of the General Statutes and by a kerosene supplier. A monthly report is due by the 22nd of each month and applies to kerosene sold during the preceding month by a supplier licensed under that Part and to kerosene received during the preceding month by a kerosene supplier. A kerosene terminal operator must file a return in accordance with the provisions of G.S. 105-449.100.

- (1) Motor fuel.
- (2) Alternative fuel used to operate a highway vehicle.
- (3) Kerosene."

**SECTION 10.16.** G.S. 119-18 is amended by adding a new subsection to read:

"(a1) Deferred Payment. – A licensed kerosene distributor that buys kerosene from a supplier licensed under Part 2 of Article 36C of Chapter 105 of the General Statutes has the right to defer payment of the inspection tax until the supplier is required to remit the tax to this State or another state. A licensed kerosene distributor that pays the tax due a supplier licensed under that Part by the date the supplier must pay the tax to the State may deduct from the amount due a discount in the amount set in G.S. 105-449.93."

## **PART 11. CHARGE OFF BAD DEBTS.**

**SECTION 11.** G.S. 105-164.13(15) reads as rewritten:

"(15) Accounts of purchasers, representing taxable sales, on which the tax imposed by this Article has been paid, that are found to be worthless and actually charged off for income tax purposes may, at corresponding periods, be deducted from gross sales, ~~provided,~~

~~however, they must be added to gross sales if afterwards collected sales.~~ In the case of a municipality that sells electricity, the account may be deducted if it meets all the conditions for charge-off that would apply if the municipality were subject to income tax. Any accounts deducted pursuant to this subdivision must be added to gross sales if afterwards collected."

**PART 12. EFFECTIVE DATE.**

**SECTION 12.** Parts 1 and 8 of this act are effective for taxable years beginning on or after January 1, 2003. Part 5 of this act becomes effective July 1, 2003. Part 9 of this act is effective for taxable years beginning on or after January 1, 2003, and shall expire for taxable years beginning on or after January 1, 2005. Part 10 of this act becomes effective January 1, 2004. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 15<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 1:43 p.m. on the 27<sup>th</sup> day of July, 2003.

**S.B. 655**

**Session Law 2003-350**

AN ACT TO MAKE CLARIFYING CHANGES TO THE DEFINITION OF LOCKSMITH SERVICES UNDER THE LOCKSMITH LICENSING ACT, TO AMEND THE POWERS OF THE NORTH CAROLINA LOCKSMITH LICENSING BOARD TO ALLOW THE BOARD TO EMPLOY AN ATTORNEY AND HAVE CONDUCTED CRIMINAL HISTORY RECORD CHECKS ON APPLICANTS, TO AMEND THE LOCKSMITH LICENSING ACT TO ALLOW THE BOARD TO REGULATE APPRENTICE LOCKSMITHS AND COLLECT FEES, TO CLARIFY THE EXEMPTION FOR GENERAL CONTRACTORS, TO CLARIFY THE EXEMPTION FOR TOWING SERVICES UNDER THE ACT, AND TO AUTHORIZE THE DEPARTMENT OF JUSTICE TO CONDUCT CRIMINAL HISTORY RECORD CHECKS OF APPLICANTS FOR LICENSURE OR APPRENTICE DESIGNATION AS A LOCKSMITH.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 74F-4 is amended by adding a new subdivision to read:  
 "(01) Apprentice. – A person who has been issued an apprenticeship designation by the Board."

**SECTION 2.** G.S. 74F-4(5) reads as rewritten:

"(5) Locksmith services. – Repairing, rebuilding, rekeying, repinning, servicing, adjusting, or installing locks, mechanical or electronic locking devices, access control devices, egress control devices, safes, vaults, and safe-deposit boxes for compensation or other consideration, including services performed by safe technicians."

**SECTION 3.** G.S. 74F-6(4) reads as rewritten:

"(4) Issue, renew, deny, suspend, or revoke licenses or apprenticeship designations and conduct any disciplinary actions authorized by this Chapter."

**SECTION 4.** G.S. 74F-6 is amended by adding the following new subdivisions to read:

"The Board shall have the power and duty to:

...

- (15) Employ an attorney to assist or represent the Board in enforcing this Chapter.
- (16) Request that the Department of Justice conduct criminal history record checks of applicants for licensure and apprenticeships pursuant to G.S. 114-19.8A."

**SECTION 5.** G.S. 74F-7 reads as rewritten:

"§ **74F-7. Qualifications for license.**

An applicant shall be licensed as a locksmith if the applicant meets all of the following qualifications:

- (1) Is of good moral and ethical ~~character~~ character, as evidenced in part by a criminal history record check conducted in accordance with G.S. 74F-18.
- (2) Is at least 18 years of age.
- (3) Successfully completes an examination administered by the Board that measures the knowledge and skill of the applicant in locksmith services and the laws applicable to licensed locksmiths.
- (4) Pays the required fee under G.S. 74F-9."

**SECTION 6.** Chapter 74F of the General Statutes is amended by adding a new section to read:

"§ **74F-7A. Apprentices.**

(a) An applicant may receive an apprentice designation if the applicant meets all of the following requirements:

- (1) Is of good moral and ethical character, as evidenced in part by a criminal history record check conducted in accordance with G.S. 74F-18.
- (2) Is at least 18 years of age.
- (3) Pays the required fee under G.S. 74F-9.

(b) After an applicant has satisfied the requirements in subsection (a) of this section, the apprentice may practice as an apprentice locksmith under the supervision of a licensed locksmith. The Board shall issue each apprentice a colored badge card that identifies the individual as an apprentice and includes the apprentice designation. The Board shall establish requirements for apprentice supervision.

(c) An apprentice may have the apprentice designation for no longer than three years. On or before the three-year period expires, the apprentice shall take the locksmith licensure examination administered by the Board. If the apprentice fails to take the examination within the three-year period or fails the examination and does not retake the examination on or before the three-year period expires, the apprentice shall not receive licensure and shall not be granted another apprenticeship.

(d) If an apprentice terminates employment with a licensed locksmith under which the apprentice originally received his or her apprenticeship, the apprentice shall find employment with another licensed locksmith to maintain the apprentice designation and shall pay a transfer fee pursuant to G.S. 74F-9.

Each licensed locksmith shall have no more than two apprentices at one time. However, a licensed locksmith shall have a 90-day grace period within which to accommodate more than two apprentices if the apprentice is newly hired as a result of a



previous termination of employment or the inability of a licensed locksmith to supervise the apprentice. The licensed locksmith shall contact the Board once the locksmith terminates the additional apprentice, and the licensed locksmith shall be legally responsible for the apprentice's work until the Board is notified otherwise."

**SECTION 7.** G.S. 74F-9 reads as rewritten:

"§ 74F-9. Fees.

The Board shall establish fees not exceeding the following amounts:

(1)	Issuance of a license	\$100.00
(2)	Renewal of a license	\$100.00
(3)	Examination	\$200.00
(4)	Reinstatement	\$150.00
(5)	Late fees	<del>\$150.00</del> \$150.00
(6)	<u>Apprentice fee</u>	<u>\$100.00</u>
(7)	<u>Apprentice transfer fee</u>	<u>\$25.00."</u>

**SECTION 8.** G.S. 74F-15 reads as rewritten:

"§ 74F-15. Disciplinary procedures.

The Board may deny or refuse to renew, suspend, or revoke a license or apprenticeship designation if the ~~licensee~~ licensee, apprentice, or applicant:

- (1) Gives false information to or withholds information from the Board in procuring or attempting to procure a license.
- (2) Has been convicted of or pled guilty or no contest to ~~a crime that indicates that the person is unfit or incompetent to perform locksmith services, that involves moral turpitude, or that indicates the person has deceived or defrauded the public.~~ any of the crimes listed in G.S. 74F-18(a)(2).
- (3) Has demonstrated gross negligence, incompetency, or misconduct in performing locksmith services.
- (4) Has willfully violated any of the provisions of this Chapter."

**SECTION 9.** G.S. 74F-16(2) reads as rewritten:

"The provisions of this Chapter do not apply to:

...

- (2) A person working as an apprentice ~~under the supervision of a licensed locksmith while fulfilling the requirements for licensure when acting under the control and supervision of the licensed locksmith.~~ pursuant to G.S. 74F-7A."

**SECTION 10.** G.S. 74F-16(4) reads as rewritten:

"The provisions of this Chapter do not apply to:

...

- (4) An employee of a towing ~~service,~~service or an automotive repair business providing services in the normal course of its business, a reposessor, a taxi cab service, a motor vehicle dealer as defined in G.S. 20-286(11), or a motor club as defined in G.S. 58-69-1 when opening automotive locks in the normal course of their duties, so long as the employee does not represent himself or herself as a locksmith.

...."

**SECTION 10.1.** G.S. 74F-16(9) reads as rewritten:

"The provisions of this Chapter do not apply to:

...

- (9) A general contractor licensed under Article 1 of Chapter 87 of the General Statutes when acting within the scope and course of the general contractor ~~license~~ license, or an agent or subcontractor of a licensed general contractor when acting within the ordinary course of business."

**SECTION 11.** Chapter 74F of the General Statutes is amended by adding a new section to read:

**§ 74F-18. Criminal history record checks of applicants for licensure or apprentice designation.**

- (a) Definitions. – The following definitions shall apply in this section:
- (1) Applicant. – A person applying for licensure as a locksmith pursuant to G.S. 74F-7 or apprentice designation pursuant to G.S. 74F-7A.
- (2) Criminal history. – A history of conviction of a state or federal crime, whether a misdemeanor or felony, that bears on an applicant's fitness for licensure to practice locksmithing. The crimes include the criminal offenses set forth in any of the following Articles of Chapter 14 of the General Statutes: Article 5, Counterfeiting and Issuing Monetary Substitutes; Article 5A, Endangering Executive and Legislative Officers; Article 6, Homicide; Article 7A, Rape and Other Sex Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; Article 14, Burglary and Other Housebreakings; Article 15, Arson and Other Burnings; Article 16, Larceny; Article 17, Robbery; Article 18, Embezzlement; Article 19, False Pretenses and Cheats; Article 19A, Obtaining Property or Services by False or Fraudulent Use of Credit Device or Other Means; Article 19B, Financial Transaction Card Crime Act; Article 20, Frauds; Article 21, Forgery; Article 26, Offenses Against Public Morality and Decency; Article 26A, Adult Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29, Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses Against the Public Peace; Article 36A, Riots and Civil Disorders; Article 39, Protection of Minors; Article 40, Protection of the Family; Article 59, Public Intoxication; and Article 60, Computer-Related Crime. The crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act in Article 5 of Chapter 90 of the General Statutes and alcohol-related offenses including sale to underage persons in violation of G.S. 18B-302 or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5. In addition to the North Carolina crimes listed in this subdivision, such crimes also include similar crimes under federal law or under the laws of other states.
- (b) All applicants for licensure or apprentice designation shall consent to a criminal history record check. Refusal to consent to a criminal history record check may constitute grounds for the Board to deny licensure or apprentice designation to an applicant. The Board shall ensure that the State and national criminal history of an

applicant is checked. The Board shall be responsible for providing to the North Carolina Department of Justice the fingerprints of the applicant to be checked, a form signed by the applicant consenting to the criminal record check and the use of fingerprints and other identifying information required by the State or National Repositories of Criminal Histories, and any additional information required by the Department of Justice. The Board shall keep all information obtained pursuant to this section confidential.

(c) If an applicant's criminal history record check reveals one or more convictions listed under subdivision (a)(2) of this section, the conviction shall not automatically bar licensure. The Board shall consider all of the following factors regarding the conviction:

- (1) The level of seriousness of the crime.
- (2) The date of the crime.
- (3) The age of the person at the time of the conviction.
- (4) The circumstances surrounding the commission of the crime, if known.
- (5) The nexus between the criminal conduct of the person and the job duties of the position to be filled.
- (6) The person's prison, jail, probation, parole, rehabilitation, and employment records since the date the crime was committed.
- (7) The subsequent commission by the person of a crime listed in subdivision (a)(2) of this section.

If, after reviewing these factors, the Board determines that the applicant's criminal history disqualifies the applicant for licensure, the Board may deny licensure or apprentice designation of the applicant. The Board may disclose to the applicant information contained in the criminal history record check that is relevant to the denial. The Board shall not provide a copy of the criminal history record check to the applicant. The applicant shall have the right to appear before the Board to appeal the Board's decision. However, an appearance before the full Board shall constitute an exhaustion of administrative remedies in accordance with Chapter 150B of the General Statutes.

(d) Limited Immunity. – The Board, its officers, and employees, acting in good faith and in compliance with this section, shall be immune from civil liability for denying licensure or apprentice designation to an applicant based on information provided in the applicant's criminal history record check."

**SECTION 12.** Article 4 of Chapter 114 of the General Statutes is amended by adding a new section to read:

**"§ 114-19.12. Criminal record checks of applicants for locksmith licensure or apprentice designation.**

The Department of Justice may provide to the North Carolina Locksmith Licensing Board from the State and National Repositories of Criminal Histories the criminal history of any applicant for licensure as a locksmith or an apprentice under Chapter 74F of the General Statutes. Along with the request, the Board shall provide to the Department of Justice the fingerprints of the applicant, a form signed by the applicant consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Department of Justice. The applicant's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Board shall keep all information obtained pursuant to this section confidential. The Department of Justice may charge a fee to offset the cost incurred by it

to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information."

**SECTION 13.** This act becomes effective August 1, 2003.

In the General Assembly read three times and ratified this the 15<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 1:43 p.m. on the 27<sup>th</sup> day of July, 2003.

**H.B. 497****Session Law 2003-351**

AN ACT TO REMOVE THE SUNSET ON THE AUTHORIZATION FOR CERTAIN PRIVATE CORRECTIONAL OFFICERS TO USE FORCE AND MAKE ARRESTS CONSISTENT WITH NORTH CAROLINA LAW.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Section 7 of S.L. 2001-378 reads as rewritten:

"**SECTION 7.** This act is effective when it becomes ~~law~~, law and applies to private correctional facilities and the employees of those correctional facilities constructed and contracted to be operated by the effective date of this ~~act, and expires two years after the effective date.~~ act."

**SECTION 2.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 15<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 1:47 p.m. on the 27<sup>th</sup> day of July, 2003.

**H.B. 897****Session Law 2003-352**

AN ACT TO IMPROVE THE SOLVENCY OF THE COMMERCIAL LEAKING PETROLEUM UNDERGROUND STORAGE TANK CLEANUP FUND AND THE NONCOMMERCIAL LEAKING PETROLEUM UNDERGROUND STORAGE TANK CLEANUP FUND BY TEMPORARILY REQUIRING THAT CLEANUPS PROCEED ONLY AFTER PREAPPROVAL BY THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES PURSUANT TO A SCHEDULE BASED ON THE DEGREE OF RISK TO HUMAN HEALTH AND THE ENVIRONMENT AND OTHER FACTORS; TO PROVIDE THAT PAYMENT OR REIMBURSEMENT FROM THE COMMERCIAL FUND AND NONCOMMERCIAL FUND BE LIMITED TO THAT NECESSARY TO ACHIEVE THE MOST COST-EFFECTIVE CLEANUP; TO PROVIDE FOR THE IMPLEMENTATION OF PERFORMANCE-BASED CLEANUPS; TO MINIMIZE FUTURE DISCHARGES AND RELEASES BY AUTHORIZING THE ADOPTION OF RULES TO REQUIRE THE USE OF SECONDARY CONTAINMENT FOR PETROLEUM UNDERGROUND STORAGE TANK SYSTEMS; TO AUTHORIZE THE ENVIRONMENTAL MANAGEMENT COMMISSION TO ADOPT TEMPORARY AND PERMANENT RULES TO REDUCE CERTAIN TESTING REQUIREMENTS APPLICABLE TO THE LEAKING UNDERGROUND STORAGE TANK CLEANUP PROGRAM TO REDUCE COSTS; TO PROVIDE THAT A MIXED PLUME OF CONTAMINATION THAT RESULTS FROM RELEASES OF

PETROLEUM FROM BOTH AN UNDERGROUND STORAGE TANK AND AN ABOVEGROUND STORAGE TANK OR OTHER SOURCE MAY BE CLEANED UP UNDER THE RISK-BASED CLEANUP RULES APPLICABLE TO RELEASES FROM PETROLEUM UNDERGROUND STORAGE TANKS; AND TO AUTHORIZE THE ENVIRONMENTAL REVIEW COMMISSION TO STUDY ISSUES RELATED TO THE LEAKING PETROLEUM UNDERGROUND STORAGE TANK CLEANUP PROGRAM IN ORDER TO PROTECT PROPERTY VALUES, ENSURE TIMELY REIMBURSEMENT OF PERSONS WHO ENGAGE IN CLEANUPS, AND PROTECT GROUNDWATER.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 143-215.94A is amended by adding a new subsection to read:

- "(2a) 'Cost-effective cleanup' means the cleanup method that meets all of the following criteria:
- a. Addresses imminent threats to human health or the environment.
  - b. Provides for the cleanup or removal of all contaminated soil except in circumstances where it is impractical to remove contaminated soil.
  - c. Is approved by the Commission for remediation of the site.
  - d. Is the least expensive cleanup based on total cost, including costs not eligible for reimbursement from the Commercial Fund or the Noncommercial Fund."

**SECTION 2.** G.S. 143-215.94B(d) reads as rewritten:

- "(d) The Commercial Fund shall not be used for:
- (1) Costs incurred as a result of a discharge or release from an aboveground tank, aboveground pipe or fitting not connected to an underground storage tank, or vehicle.
  - (2) The removal or replacement of any tank, pipe, fitting or related equipment.
  - (3) Costs incurred as a result of a discharge or release of petroleum from a transmission pipeline.
  - (4) Costs intended to be paid by the Noncommercial Fund.
  - (5) Costs associated with the administration of any underground storage tank program other than the program administered pursuant to this Part.
  - (6) Costs paid or reimbursed by or from any source other than the Commercial Fund, including but not limited to, any payment or reimbursement made under a contract of insurance.
  - (7) Costs incurred as a result of the cleanup of environmental damage to groundwater to a more protective standard than the risk-based standard required by the Department unless the cleanup of environmental damage to groundwater to a more protective standard is necessary to resolve a claim for compensation by a third party for property damage.
  - (8) Costs in excess of those required to achieve the most cost-effective cleanup."

**SECTION 3.** G.S. 143-215.94B(f) reads as rewritten:

"(f) **(Effective until October 1, 2006)** ~~On the first day of~~ During each fiscal ~~quarter, year,~~ the Department may ~~allocate use up to fifty percent (50%) two million five hundred thousand dollars (\$2,500,000)~~ of the funds in the Commercial Fund ~~that are not otherwise obligated~~ for performance-based cleanups as provided in this subsection. The Department may also use any funds that are available from any other source and that are specifically intended to be used for performance-based cleanups as provided in this section. Each performance-based cleanup shall comply with the requirements of this Part and any other provisions of law that govern the cleanup of environmental damage resulting from the discharge or release of a petroleum product from a commercial underground storage tank. The Department or any owner, operator, or landowner may contract for performance-based cleanups with environmental services firms that the Department has determined to be qualified to satisfactorily complete the work associated with a cleanup. Before the award of the contract, the environmental services firms shall secure a surety or performance bond equal to the price of the firm's services under the contract and shall demonstrate having secured the surety or performance bond to the satisfaction of the Department. The surety shall be liable on the bond obligation when the environmental services firms fail to perform as specified in the contract. A performance-based contract shall provide that cleanup will be completed within the time and for the cost stated in the contract. The Department or any owner, operator, or landowner shall select environmental services firms for performance-based cleanup through a competitive bidding process. The Commission shall adopt rules governing the competitive bidding ~~process~~ process and any other rules necessary to implement this subsection. The rules shall establish qualifications for environmental services firms and for individuals and firms that provide engineering services as part of a contract to satisfactorily complete work associated with cleanup."

**SECTION 4.** G.S. 143-215.94D(d) reads as rewritten:

"(d) The Noncommercial Fund shall not be used for:

- (1) Costs incurred as a result of a discharge or release from an aboveground tank, aboveground pipe or fitting not connected to an underground storage tank, or vehicle.
- (2) The removal or replacement of any tank, pipe, fitting or related equipment.
- (3) Costs incurred as a result of a discharge or release of petroleum from a transmission pipeline.
- (4) Costs intended to be paid for by the Commercial Fund.
- (5) Costs associated with the administration of any underground storage tank program other than the program administered pursuant to this Part.
- (6) Costs paid or reimbursed by or from any source other than the Noncommercial Fund, including, but not limited to, any payment or reimbursement made under a contract of insurance.
- (7) Costs incurred as a result of the cleanup of environmental damage to groundwater to a more protective standard than the risk-based standard required by the Department unless the cleanup of environmental damage to groundwater to a more protective standard is necessary to resolve a claim for compensation by a third party for property damage.
- (8) Costs in excess of those required to achieve the most cost-effective cleanup."

**SECTION 5.** G.S. 143-215.94D(f) reads as rewritten:

"(f) **(Effective until October 1, 2006)** ~~On the first day of~~During each fiscal ~~quarter, year~~ the Department may ~~allocate~~use up to ~~fifty percent (50%) two hundred fifty thousand dollars (\$250,000)~~ of the funds in the Noncommercial Fund ~~that are not otherwise obligated~~ for performance-based cleanups as provided in this subsection. The Department may also use any funds that are available from any other source and that are specifically intended to be used for performance-based cleanups as provided in this section. Each performance-based cleanup shall comply with the requirements of this Part and any other provisions of law that govern the cleanup of environmental damage resulting from the discharge or release of a petroleum product from a noncommercial underground storage tank. The Department or any owner, operator, or landowner may contract for performance-based cleanups with environmental services firms that the Department has determined to be qualified to satisfactorily complete the work associated with a cleanup. Before the award of the contract, the environmental services firms shall secure a surety or performance bond equal to the price of the firm's services under the contract and shall demonstrate having secured the surety or performance bond to the satisfaction of the Department. The surety shall be liable on the bond obligation when the environmental services firms fail to perform as specified in the contract. A performance-based contract shall provide that cleanup will be completed within the time and for the cost stated in the contract. The Department or any owner, operator, or landowner shall select environmental services firms for performance-based cleanup through a competitive bidding ~~process~~process and any other rules necessary to implement this subsection."

**SECTION 6.** G.S. 143-215.94E(f) is repealed.

**SECTION 7.** G.S. 143-215.94E(g) reads as rewritten:

"(g) No owner or operator shall be reimbursed pursuant to this section, and the Department shall seek reimbursement of the appropriate fund or of the Department for any monies disbursed from the appropriate fund or expended by the Department ~~if~~if any of the following apply:

- (1) The owner or operator has willfully violated any substantive law, rule, or regulation applicable to underground storage tanks and intended to prevent or mitigate discharges or releases or to facilitate the early detection of discharges or ~~releases~~releases.
- (2) The discharge or release is the result of the owner's or operator's willful or wanton ~~misconduct~~misconduct.
- (3) The owner or operator has failed to pay any annual tank operating fee due pursuant to G.S. 143-215.94C."

**SECTION 8.** G.S. 143-215.94T reads as rewritten:

**"§ 143-215.94T. Adoption and implementation of regulatory program.**

(a) The Commission shall adopt, and the Department shall implement and enforce, rules relating to underground storage tanks as provided by G.S. 143-215.3(a)(15) and G.S. 143B-282(2)h. These rules shall include standards and requirements applicable to both existing and new underground storage tanks and tank systems, may include different standards and requirements based on tank capacity, tank location, tank age, and other relevant factors, and shall include, at a minimum, standards and requirements for:

- (1) Design, construction, and installation, including monitoring systems.
- (2) Notification to the Department, inspection, and registration.
- (3) Recordation of tank location.

- (4) Modification, retrofitting, and upgrading.
- (5) General operating requirements.
- (6) Release detection.
- (7) Release reporting, investigation, and confirmation.
- (8) Corrective action.
- (9) Repair.
- (10) Closure.
- (11) Financial responsibility.
- (12) Tank tightness testing procedures and certification of persons who conduct tank tightness tests.
- (13) Secondary containment for nontank components of petroleum underground storage tank systems.

(b) Rules adopted pursuant to subsection (a) of this section that apply only to commercial underground storage tanks shall not apply to any:

- (1) Farm or residential underground storage tank of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes.
- (2) Underground storage tank of 1,100 gallons or less capacity used for storing heating oil for consumptive use on the premises where stored.
- (3) Underground storage tank of more than 1,100 gallon capacity used for storing heating oil for consumptive use on the premises where stored by four or fewer households.

(c) Rules adopted pursuant to subdivision (13) of subsection (a) of this section shall require secondary containment for all nontank components of underground storage tank systems, including all piping and fittings, pump heads, and dispensers. Secondary containment requirements shall include standards for double wall piping and fittings and sump containment for pump heads and dispensers. The rules shall provide for monthly monitoring of double wall interstices and sump containments. The rules shall apply to any underground storage tank system that is installed on or after the date on which the rules become effective and to the replacement of any nontank component of an underground storage tank system on or after that date."

**SECTION 9.** G.S. 143-215.94V reads as rewritten:

"§ 143-215.94V. **Standards for petroleum underground storage tank cleanup.**

- (a) Legislative findings and intent.
  - (1) The General Assembly finds that:
    - a. The goals of the underground storage tank program are to protect human health and the environment. Maintaining the solvency of the Commercial Fund and the Noncommercial Fund is essential to these goals.
    - b. The sites at which discharges or releases from underground storage tanks occur vary greatly in terms of complexity, soil types, hydrogeology, other physical and chemical characteristics, current and potential future uses of groundwater, and the degree of risk that each site may pose to human health and the environment.
    - c. Risk-based corrective action is a process that recognizes this diversity and utilizes an approach where assessment and remediation activities are specifically tailored to the conditions and risks of a specific site.



- d. Risk-based corrective action gives the State flexibility in requiring different levels of cleanup based on scientific analysis of different site characteristics, and allowing no action or no further action at sites that pose little risk to human health or the environment.
  - e. A risk-based approach to the cleanup of environmental damage can adequately protect human health and the environment while preventing excessive or unproductive cleanup efforts, thereby assuring that limited resources are directed toward those sites that pose the greatest risk to human health and the environment.
- (2) The General Assembly intends:
- a. To direct the Commission to adopt rules that will provide for risk-based assessment and cleanup of discharges and releases from petroleum underground storage tanks. These rules are intended to combine groundwater standards that protect current and potential future uses of groundwater with risk-based analysis to determine the appropriate cleanup levels and actions.
  - b. That these rules apply to all discharges or releases that are reported on or after the date the rules become effective in order to ascertain whether cleanup is necessary, and if so, the appropriate level of cleanup.
  - c. That these rules may be applied to any discharge or release that has been reported at the time the rules become effective at the discretion of the Commission.
  - d. That these rules and decisions of the Commission and the Department in implementing these rules facilitate the completion of more cleanups in a shorter period of time.
  - e. That neither the Commercial Fund nor the Noncommercial Fund be used to clean up sites where the Commission has determined that a discharge or release poses a degree of risk to human health or the environment that is no greater than the acceptable level of risk established by the Commission.
  - f. Repealed by Session Laws 1998-161, s. 11(c).
  - g. That the Commercial Fund and the Noncommercial Fund be used to perform the most cost-effective cleanup that addresses imminent threats to human health and the environment.

(b) The Commission shall adopt rules to establish a risk-based approach for the assessment, prioritization, and cleanup of discharges and releases from petroleum underground storage tanks. The rules shall address, at a minimum, the circumstances where site-specific information should be considered, criteria for determining acceptable cleanup levels, and the acceptable level or range of levels of risk to human health and the environment.

(c) The Commission may require an owner or operator or a landowner eligible for payment or reimbursement under subsections (b), (b1), (c), and (c1) of G.S. 143-215.94E to provide information necessary to determine the degree of risk to human health and the environment that is posed by a discharge or release from a petroleum underground storage tank, and to identify the most cost-effective cleanup that addresses imminent threats to human health and the environment.

(d) If the Commission concludes that a discharge or release poses a degree of risk to human health or the environment that is no greater than the acceptable level of risk established by the Commission, the Commission shall notify an owner, operator, or landowner who provides the information required by subsection (c) of this section that no cleanup, further cleanup, or further action will be required unless the Commission later determines that the discharge or release poses an unacceptable level of risk or a potentially unacceptable level of risk to human health or the environment. If the Commission concludes that a discharge or release poses a degree of risk to human health or the environment that requires further cleanup, the Commission shall notify the owner, operator, or landowner who provides the information required by subsection (c) of this section of the cleanup method approved by the Commission as the most cost-effective cleanup method for the site. This section shall not be construed to prohibit an owner, operator, or landowner from selecting a cleanup method other than the cost-effective cleanup method approved by the Commission so long as the Commission determines that the alternative cleanup method will address imminent threats to human health and the environment.

(e) If the Commission concludes under subsection (d) of this section that no cleanup, no further cleanup, or no further action will be required, the Department shall not pay or reimburse any costs otherwise payable or reimbursable under this Article from either the Commercial or Noncommercial Fund, other than reasonable and necessary to conduct the risk assessment required by this section, unless:

- (1) Cleanup is ordered or damages are awarded in a finally adjudicated judgment in an action against the owner or landowner.
- (2) Cleanup is required or damages are agreed to in a consent judgment approved by the Department prior to its entry by the court.
- (3) Cleanup is required or damages are agreed to in a settlement agreement approved by the Department prior to its execution by the parties.
- (4) The payment or reimbursement is for costs that were incurred prior to or as a result of notification of a determination by the Commission that no cleanup, no further cleanup, or no action is required.
- (5) The payment or reimbursement is for costs that were incurred as a result of a later determination by the Commission that the discharge or release poses a threat or potential threat to human health or the environment as provided in subsection (d) of this section.

(e1) If the Commission concludes under subsection (d) of this section that further cleanup is required and notifies the owner, operator, or landowner of the cleanup method approved by the Commission as the most cost-effective cleanup method for the site, the Department shall not pay or reimburse any costs otherwise payable or reimbursable under this Article from either the Commercial Fund or Noncommercial Fund, other than those costs that are reasonable and necessary to conduct the risk assessment and to implement the cost-effective cleanup method approved by the Commission. If the owner, operator, or landowner selects a cleanup method other than the one identified by the Commission as the most cost-effective cleanup, the Department shall not pay or reimburse for costs in excess of the cost of implementing the approved cost-effective cleanup.

(f) This section shall not be construed to limit the authority of the Commission to require investigation, initial response, and abatement of a discharge or release pending a determination by the Commission under subsection (d) of this section as to whether cleanup, further cleanup, or further action will be required.

(g) Subsections (c) through ~~(e)~~(e1) of this section apply only to assessments and cleanups in progress or begun on or after 2 January 2, 1998.

(h) If a discharge or release of petroleum from an underground storage tank results in contamination in soil or groundwater that becomes commingled with contamination that is the result of a discharge or release of petroleum from a source of contamination other than an underground storage tank, the cleanup of petroleum may proceed under rules adopted pursuant to this section. The Department shall not pay or reimburse any costs associated with the assessment or remediation of that portion of contamination that results from a release or discharge of petroleum from a source other than an underground storage tank from either the Commercial Fund or the Noncommercial Fund."

**SECTION 10.** The definitions set out in G.S. 143-212 and G.S. 143-215.94A apply to this section. The rights and obligations of an owner, operator, or a landowner to whom G.S. 143-215.94E(b1) applies who is eligible to have costs paid or reimbursed under G.S. 143-215.94B shall be governed by G.S. 143-215.94E as modified by this section. The Department shall establish the degree of risk to human health and the environment posed by a discharge or release of petroleum from a commercial underground storage tank and shall determine a schedule for further assessment and cleanup based on the degree of risk to human health and the environment posed by the discharge or release. If any of the costs of assessment and cleanup of the discharge or release from a commercial underground storage tank are eligible to be paid from the Commercial Fund, the Department shall also consider the availability of funds in the Commercial Fund and the order in which the discharge or release was reported in determining the schedule. The Department may revise the schedule that applies to the assessment and cleanup of any discharge or release at any time based on its reassessment of any of the foregoing factors. The lack of availability of funds in the Commercial Fund shall not relieve an owner or operator of responsibility to immediately undertake to collect and remove the discharge or release or to conduct any assessment or cleanup ordered by the Department or be a defense against any violations and penalties issued to the owner or operator for failure to conduct required assessment or cleanup. If the owner or operator takes initial steps to collect and remove the discharge or release as required by the Department and completes initial assessment required to determine degree of risk, the owner or operator shall not be subject to any violation or penalty for any failure to proceed with further assessment or cleanup under G.S.143-215.84 or G.S. 143-215.94E before the owner or operator is authorized to proceed with further assessment or cleanup pursuant to the schedule set by the Department. Once the Department has determined a schedule for the assessment and cleanup of a discharge or release from a commercial underground storage tank, an owner, operator, or other person responsible for the assessment and cleanup is not eligible to have the costs of the assessment or cleanup paid or reimbursed from the Commercial Fund until such time as further assessment or cleanup is authorized by the Department pursuant to the schedule. An owner, operator, or other person may undertake further assessment or cleanup before receiving authorization from the

Department. An owner, operator, or other person who undertakes further assessment or cleanup before receiving authorization from the Department shall be reimbursed only after the Department has paid or reimbursed the costs for all assessments and cleanups that the Department has authorized.

**SECTION 11.** In order to reduce costs associated with the assessment and cleanup of discharges and releases of petroleum from petroleum underground storage tanks, the Environmental Management Commission may adopt temporary and permanent rules to modify the testing requirements set out in 15A NCAC 2L.0115 (Risk-Based Assessment and Corrective Action for Petroleum Underground Storage Tanks). Reference to this section shall satisfy the requirement for a statement of finding of need for a temporary rule.

**SECTION 12.(a)** The Environmental Review Commission may study issues related to the Leaking Petroleum Underground Storage Tank Cleanup Program. The Commission may evaluate any of the following:

- (1) The adequacy of program funding.
- (2) Options for management of available funds, including prioritization of cleanups and preapproval of cleanups.
- (3) Changes in deductible and co-payment requirements.
- (4) Options to increase program funding.
- (5) The availability and use of private insurance to pay or reimburse the costs of the assessment and cleanup of releases and discharges of petroleum from petroleum underground storage tanks and of any liability of owners and operators of those tanks to third parties.
- (6) Issues related to the inclusion of aboveground storage tanks in the program, including registration, fees and other funding issues, cleanup standards, and regulation of these tanks.
- (7) Issues related to the provision of liability protection to a bona fide purchaser of a petroleum-contaminated property who has knowledge of, but did not cause or contribute to, the contamination of the property.

**SECTION 12.(b)** The Commission may report its findings and recommendations, including any proposed legislation, to the 2004 Regular Session of the 2003 General Assembly, or to the 2005 General Assembly.

**SECTION 13.** This act is effective when it becomes law. Section 10 of this act expires 1 October 2005.

In the General Assembly read three times and ratified this the 15<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 1:49 p.m. on the 27<sup>th</sup> day of July, 2003.

## H.B. 1114

## Session Law 2003-353

AN ACT TO MAKE VOLUNTEER FILES MAINTAINED BY LOCAL BOARDS OF EDUCATION PRIVATE.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Article 13 of Chapter 115C of the General Statutes is amended by adding a new section to read:

**"§ 115C-209.1. Nondisclosure of certain volunteer records.**

(a) The records comprising a volunteer file of a local school administrative unit are not public records as provided in Chapter 132 of the General Statutes. These records shall be open for inspection only to the following individuals:

- (1) The volunteer, former volunteer, individual who applied to be a volunteer, or that individual's properly authorized agent who may examine the individual's file in its entirety at any reasonable time.
- (2) The superintendent and other supervisory personnel.
- (3) The parent or guardian of any student with whom the volunteer has or had contact.
- (4) Members of the local board of education and the board's attorney.
- (5) A party to a lawsuit, by authority of a subpoena or proper court order, only to the extent authorized by and in accordance with that subpoena or court order.

(b) A local board of education shall also release or permit the inspection of a volunteer file, except as prohibited by State or federal law, if prior to the release of the information or inspection of the file:

- (1) The local board of education determines that the release of the information or inspection of the file is essential (i) to maintaining the integrity of the local board of education or (ii) to maintaining the level or quality of services provided by the local board of education; or
- (2) The local board of education makes a written finding that there is a substantial showing of the criteria set forth in subdivision (1) of this subsection. The local board of education's written finding shall be a public record.

(c) A volunteer shall be notified at the time the individual applies to volunteer that the local board of education may maintain a volunteer file on the individual, and that information in that file may be open to inspection in accordance with this section.

(d) This section shall not be construed to require a local school administrative unit to maintain records on volunteers, former volunteers, or individuals applying to be volunteers.

(e) As used in this section, the following terms mean:

- (1) Volunteer. – An individual who provides services to a local board of education without expectation of compensation and with the understanding that the local board of education is under no obligation to continue accepting those services or to compensate the volunteer for them.
- (2) Volunteer file. – Any information collected by the local board of education regarding volunteers, former volunteers, and individuals applying to be volunteers that relates to the individual's application, selection or nonselection, performance, disciplinary action, or termination, wherever that information is located or in whatever form it is maintained."

**SECTION 2.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 18<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 10:06 a.m. on the 1<sup>st</sup> day of August, 2003.

AN ACT TO AUTHORIZE CLOVER GARDEN CHARTER SCHOOL TO ELECT TO PARTICIPATE IN THE NORTH CAROLINA TEACHERS' AND STATE EMPLOYEES' COMPREHENSIVE MAJOR MEDICAL PLAN, TO AUTHORIZE THE STATE BOARD OF EDUCATION TO GRANT OR RENEW CHARTERS FOR CHARTER SCHOOLS FOR PERIODS UP TO TEN YEARS, TO REQUIRE THE STATE BOARD OF EDUCATION TO REVIEW THE OPERATIONS OF CHARTER SCHOOLS AT LEAST EVERY FIVE YEARS, AND TO MODIFY THE AUTHORITY OF THE DUPLIN BOARD OF COUNTY COMMISSIONERS TO REQUIRE THE REGISTER OF DEEDS IN THE COUNTY NOT TO ACCEPT ANY DEED TRANSFERRING REAL PROPERTY FOR REGISTRATION UNLESS THE COUNTY TAX COLLECTOR CERTIFIES THAT NO DELINQUENT TAXES ARE DUE ON THAT PROPERTY.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Notwithstanding the time limitations contained in G.S. 135-40.3A(b), the board of directors of Clover Garden Charter School in Alamance County may elect to become a participating employing unit in the North Carolina Teachers' and State Employees' Comprehensive Major Medical Plan in accordance with Article 3 of Chapter 135 of the General Statutes. The election authorized by this section shall be made no later than 30 days after the effective date of this act and shall be made in accordance with all other requirements of G.S. 135-40.3A.

**SECTION 2.** G.S. 115C-238.29D(d) reads as rewritten:

"(d) The State Board of Education may grant the initial charter for a period not to exceed ~~five~~10 years and may renew the charter upon the request of the chartering entity for subsequent periods not to exceed ~~five~~10 years each. The State Board of Education shall review the operations of each charter school at least once every five years to ensure that the school is meeting the expected academic, financial, and governance standards.

A material revision of the provisions of a charter application shall be made only upon the approval of the State Board of Education.

It shall not be considered a material revision of a charter application and shall not require the prior approval of the State Board for a charter school to increase its enrollment during the charter school's second year of operation and annually thereafter (i) by up to ten percent (10%) of the school's previous year's enrollment or (ii) in accordance with planned growth as authorized in the charter. Other enrollment growth shall be considered a material revision of the charter application, and the State Board may approve such additional enrollment growth of greater than ten percent (10%) only if the State Board finds that:

- (1) The actual enrollment of the charter school is within ten percent (10%) of its maximum authorized enrollment;
- (2) The charter school has commitments for ninety percent (90%) of the requested maximum growth;
- (3) The board of education of the local school administrative unit in which the charter school is located has had an opportunity to be heard by the State Board of Education on any adverse impact the proposed growth would have on the unit's ability to provide a sound basic education to its students;

- (4) The charter school is not currently identified as low-performing;
- (5) The charter school meets generally accepted standards of fiscal management; and
- (6) It is otherwise appropriate to approve the enrollment growth."

**SECTION 3.** G.S. 161-31, as amended by S.L. 2003-72 and S.L. 2003-189, reads as rewritten:

"(a) Tax Certification. – The board of commissioners of a county may, by resolution, require the register of deeds not to accept any deed transferring real property for registration unless the county tax collector has certified that no delinquent ad valorem county taxes, ad valorem municipal taxes, or other taxes with which the collector is charged are a lien on the property described in the deed. The county commissioners may describe the form the certification must take in its resolution.

(a1) Exception to Tax Certification. – If a board of county commissioners adopts a resolution pursuant to subsection (a) of this section, notwithstanding the resolution, the register of deeds shall accept without certification a deed submitted for registration under the supervision of a closing attorney and containing this statement on the deed: 'This instrument prepared by: \_\_\_\_\_, a licensed North Carolina attorney. Delinquent taxes, if any, to be paid by the closing attorney to the county tax collector upon disbursement of closing proceeds.

(b) Applicability. – This section applies only to Alleghany, Anson, Beaufort, Bertie, Cabarrus, Camden, Carteret, Cherokee, Chowan, Clay, Cleveland, Currituck, Davidson, Duplin, Durham, Forsyth, Gaston, Gates, Graham, Granville, Harnett, Haywood, Henderson, Hertford, Hyde, Iredell, Jackson, Lee, Macon, Madison, Martin, Montgomery, Northampton, Pasquotank, Perquimans, Person, Pitt, Polk, Rockingham, Rowan, Rutherford, Stanly, Swain, Transylvania, Vance, Warren, Washington, and Yadkin Counties."

**SECTION 4.** Section 2 of this act is effective when it becomes law and applies to charters granted or renewed on or after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 19<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 10:07 a.m. on the 1<sup>st</sup> day of August, 2003.

### S.B. 301

### Session Law 2003-355

AN ACT TO EXTEND TO THE REMAINING TWELVE COUNTIES THE AUTHORITY CURRENTLY GIVEN TO EIGHTY-EIGHT COUNTIES TO ACQUIRE PROPERTY FOR USE BY THEIR LOCAL BOARDS OF EDUCATION.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 153A-158.1, as amended by S.L. 2003-89, reads as rewritten:

"§ **153A-158.1. Acquisition and improvement of school ~~property in certain counties.~~ property.**

(a) Acquisition by County. – A county may acquire, by any lawful method, any interest in real or personal property for use by a school administrative unit within the county. In exercising the power of eminent domain a county shall use the procedures of

Chapter 40A. The county shall use its authority under this subsection to acquire property for use by a school administrative unit within the county only upon the request of the board of education of that school administrative unit and after a public hearing.

(b) Construction or Improvement by County. – A county may construct, equip, expand, improve, renovate, or otherwise make available property for use by a school administrative unit within the county. The local board of education shall be involved in the design, construction, equipping, expansion, improvement, or renovation of the property to the same extent as if the local board owned the property.

(c) Lease or Sale by Board of Education. – Notwithstanding the provisions of G.S. 115C-518 and G.S. 160A-274, a local board of education may, in connection with additions, improvements, renovations, or repairs to all or part of any of its property, lease or sell the property to the board of commissioners of the county in which the property is located for any price negotiated between the two boards.

(d) Board of Education May Contract for Construction. – Notwithstanding the provisions of G.S. 115C-40 and G.S. 115C-521, a local board of education may enter into contracts for the erection of school buildings upon sites owned in fee simple by one or more counties in which the local school administrative unit is located.

(e) Scope. – This section applies to ~~Alamance, Alexander, Alleghany, Anson, Ashe, Avery, Bertie, Bladen, Brunswick, Burke, Cabarrus, Caldwell, Camden, Carteret, Catawba, Chatham, Cherokee, Chowan, Clay, Columbus, Craven, Cumberland, Currituck, Dare, Davidson, Davie, Duplin, Durham, Edgecombe, Forsyth, Franklin, Gaston, Gates, Graham, Greene, Guilford, Halifax, Harnett, Haywood, Henderson, Hoke, Hyde, Iredell, Jackson, Johnston, Jones, Lee, Lenoir, Lincoln, Macon, Madison, Martin, McDowell, Mecklenburg, Mitchell, Montgomery, Moore, Nash, New Hanover, Onslow, Orange, Pamlico, Pasquotank, Pender, Perquimans, Person, Pitt, Polk, Randolph, Richmond, Robeson, Roekingham, Rowan, Rutherford, Sampson, Scotland, Stanly, Stokes, Surry, Transylvania, Union, Vance, Wake, Watauga, Wayne, Wilkes, Wilson, and Yadkin Counties in every county.~~

**SECTION 2.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 18<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 10:08 a.m. on the 1<sup>st</sup> day of August, 2003.

## H.B. 1000

## Session Law 2003-356

### AN ACT TO MODIFY THE UNIVERSITY OF NORTH CAROLINA'S OPTIONAL RETIREMENT PLAN.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 135-5.1(a) reads as rewritten:

"(a) An Optional Retirement Program provided for in this section is authorized and established and shall be implemented by the Board of Governors of The University of North Carolina. The Optional Retirement Program shall be underwritten by the purchase of annuity contracts, which may be both fixed and variable contracts or a combination thereof, or financed through the establishment of a trust, for the benefit of participants in the Program. Participation in the Optional Retirement Program shall be



limited to university personnel who are eligible for membership in the Teachers' and State Employees' Retirement Program and who are:

- (1) ~~administrators~~ Administrators and faculty of ~~the~~ The University of North Carolina with the rank of instructor or ~~above, and for the benefit of: above;~~
- (~~1~~)(2) The President and Employees ~~employees~~ of ~~the~~ The University of North Carolina who are appointed by the Board of Governors on recommendation of the President pursuant to G.S. 116-11(4), 116-11(5), and 116-14 or who are appointed by the Board of Trustees of a constituent institution of The University of North Carolina upon the recommendation of the Chancellor pursuant to G.S. 116-40.22(b); ~~and~~
- (3) Nonfaculty instructional and research staff who are exempt from the State Personnel Act, as defined by the provisions of G.S. 126-5(c1)(8); and
- (~~2~~)(4) Field faculty of the Cooperative Agriculture Extension Service, and tenure track faculty in North Carolina State University agriculture research programs who are exempt from the State Personnel Act and who are eligible for membership in the Teachers' and State Employees' Retirement System pursuant to ~~GS 135-3(1),~~ G.S. 135-3(1), who in any of the cases described in this subsection (i) had been members of the Optional Retirement Program under the provisions of Chapter 338, Session Laws of 1971, immediately prior to July 1, 1985, or (ii) have sought membership as required in subsection (b), below. Under the Optional Retirement Program, the State and the participant shall contribute, to the extent authorized or required, toward the purchase of such contracts or deposited in such trust on the participant's behalf."

**SECTION 2.** This act is effective when it becomes law. G.S. 135-5.1(a)(3) applies to eligible employees who commence employment on or after August 1, 2003.

In the General Assembly read three times and ratified this the 17<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 10:08 a.m. on the 1<sup>st</sup> day of August, 2003.

### S.B. 633

### Session Law 2003-357

## AN ACT TO REVISE THE UNIVERSITY OF NORTH CAROLINA SPECIAL OBLIGATION BOND LAW.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 116D-26 reads as rewritten:

"§ 116D-26. **Issuance of special obligation bonds and bond anticipation notes.**

(a) Authority. – The Board of Governors may issue, subject to the approval of the Director of the Budget, at one time or from time to time, special obligation bonds of the Board of Governors for the purpose of paying all or any part of the cost of acquiring, constructing, or providing a special obligation project. Before issuing special obligation bonds, the Board of Governors shall first adopt a resolution (i) setting forth the

designation by the Board of Governors that the buildings or facilities to be financed by the bond issue are the special obligation bond project being financed and (ii) designating the obligated resources that will secure and be the source of payment of the special obligation bonds to be issued. The Board of Governors shall not issue any special obligation bonds unless the Board of Governors finds that sufficient obligated resources are reasonably expected to be available (i) to pay the principal and interest on the special obligation bonds proposed to be issued, (ii) to create and maintain any reserves for the payment of the special obligation bonds, to the extent the Board of Governors is required to maintain reserves for this purpose by the terms of the trust agreement or resolution authorizing the issuance of the special obligation bonds, and (iii) to provide for the maintenance and operation of the facilities that are to generate the obligated resources to the extent the Board of Governors is required to maintain those facilities by the terms of the trust agreement or resolution authorizing the issuance of the special obligation bonds. Notwithstanding any other provision of this Article, the proceeds of special obligation bonds to be secured by obligated resources derived from the operation of or activities at one institution may not be applied to finance a special obligation project to be located at another institution.

(b) Approval Required. – The Board of Governors shall not issue any special obligation bonds for a project at an institution unless the board of trustees of that institution has approved the issuance of bonds for that project. The Board of Governors shall not issue special obligation bonds under this Article until the effective date of legislation enacted by the General Assembly authorizing the undertaking of the special obligation bond project to be financed and fixing the maximum aggregate principal amount of special obligation bonds that shall be issued for that purpose. In submitting proposed special obligation bond projects to the General Assembly for approval, the Board of Governors shall submit information on the need for each project, project costs, estimates of increased operating costs upon completion, estimated debt service requirements, and the sources and amounts of obligated resources to be pledged for the repayment of the bonds. If the obligated resources to repay the bonds or to operate the proposed project potentially involve increased costs to students or to the General Fund, these costs shall be identified in the Board of Governors' submission.

Except as provided in this Article, special obligation bond projects may be undertaken, special obligation bonds may be issued, and other powers vested in the Board of Governors under this Article may be exercised by the Board without obtaining the consent of any department, division, commission, board, bureau, or agency of the State and without any other proceedings or the happening of any other conditions or things other than those proceedings, conditions, or things which are specifically required by this Article.

(c) Term; Form. – The special obligation bonds of each issue shall be dated, shall mature at any times not exceeding ~~25-30~~ years from their dates, shall bear interest at any rates as may be determined by the Board of Governors, and may be redeemable before maturity at the option of the Board, at any prices and under any terms and conditions as may be fixed by the Board prior to the issuance of the special obligation bonds. The Board of Governors shall determine the form and manner of execution of the special obligation bonds and shall fix the denominations of the special obligation bonds and the places of payment of principal and interest, which may be at any bank or trust company within or without the State. Notwithstanding any of the other provisions of this Article or any recitals in any special obligation bonds issued under the provisions of this Article, all special obligation bonds shall be negotiable instruments under the laws of

this State, subject only to the provisions for registration in a resolution authorizing the issuance of the special obligation bonds or a trust agreement securing the bonds. The Board of Governors may sell the special obligation bonds in any manner, at public or private sale, and for any price, as it may determine to be for its best interests.

(d) Proceeds; Additional Bonds. – The proceeds of the special obligation bonds of each issue shall be used solely for the purpose for which the bonds have been authorized and shall be disbursed in the manner and under such restrictions, if any, as the Board of Governors may provide in the resolution authorizing the issuance of the bonds or in the trust agreement securing them. Unless otherwise provided in the authorizing resolution or in the trust agreement securing the special obligation bonds, if the proceeds of the special obligation bonds, by error of estimates or otherwise, are less than the cost of the special obligation bond project, additional bonds may in like manner be issued to provide the amount of the deficit and shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued for the same purpose.

The resolution providing for the issuance of special obligation bonds, and any trust agreement securing them, may also contain limitations upon the issuance of additional special obligation bonds as the Board of Governors considers proper, and the additional special obligation bonds must be issued under the restrictions and limitations prescribed by the resolution or trust agreement.

(e) Temporary Bonds; Notes. – Before preparing definitive bonds, the Board of Governors may, under like restrictions, issue interim receipts or temporary bonds exchangeable for definitive bonds when the bonds have been executed and are available for delivery. The Board may also provide for the replacement of any bonds which become mutilated, destroyed, or lost.

The Board of Governors may enter into or negotiate a note with an acceptable bank or trust company in lieu of issuing special obligation bonds for the financing of special obligation bond projects covered under this Article. The terms and conditions of any note of this nature shall be in accordance with the terms and conditions surrounding issuance of the special obligation bonds.

(f) Bond Anticipation Notes. – The Board of Governors may issue, subject to the approval of the Director of the Budget, at one time or from time to time, bond anticipation notes of the Board of Governors in anticipation of the issuance of special obligation bonds authorized by this Article. The principal of and the interest on these notes shall be payable solely from the proceeds of special obligation bonds or renewal notes or, in the event bond or renewal note proceeds are not available, from the obligated resources designated for their payment. The notes of each issue shall be dated, shall mature at any times not exceeding ~~two~~ 30 years from their dates, shall bear interest at any rates as may be determined by the Board of Governors, and may be redeemable before maturity, at the option of the Board of Governors, at any prices and under any terms and conditions as may be fixed by the Board of Governors prior to the issuance of the notes. If the Board of Governors issues a bond anticipation note for a term in excess of three years, no individual project may be funded from the proceeds of the note for longer than three years. The Board shall determine the form and the manner of execution of the notes and shall fix the denominations of the notes and the places of payment of principal and interest, which may be at any bank or trust company within or without the State. Notwithstanding any of the other provisions of this Article or any recitals in any notes issued under the provisions of this Article, all notes shall be negotiable instruments under the laws of this State, subject only to the provisions for

registration in a resolution authorizing the issuance of the notes or any trust agreement securing the bonds in anticipation of which the notes are being issued. The Board of Governors may sell the notes in any manner, at public or private sale, and for any price, as it may determine to be for its best interests.

The proceeds of the notes ~~of each issue~~ shall be used solely for the purpose for which the special obligation bonds ~~in anticipation of which the notes are being issued~~ have been authorized, and the note proceeds shall be disbursed in any manner and under any restrictions as the Board of Governors may provide in the resolution authorizing the issuance of the notes or bonds or in the trust agreement securing the special obligation bonds.

The resolution providing for the issuance of notes, and any trust agreement securing the special obligation bonds in anticipation of which the notes are being authorized, may also contain limitations upon the issuance of additional notes as the Board of Governors considers proper, and such additional notes shall be issued under the restrictions and limitations prescribed by the resolution or trust agreement. The Board may also provide for the replacement of any notes which shall become mutilated, destroyed, or lost.

Except as provided in this Article, notes may be issued under this Article and other powers vested in the Board of Governors under this Article may be exercised by the Board without obtaining the consent of any department, division, commission, board, bureau, or agency of the State and without any other proceedings or the happening of any other conditions or things than those proceedings, conditions, or things which are specifically required by this Article.

Unless the context indicates otherwise, the word 'bonds', wherever used in this Article, include the words 'bond anticipation notes.' "

**SECTION 2.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 18<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 10:09 a.m. on the 1<sup>st</sup> day of August, 2003.

## S.B. 701

## Session Law 2003-358

AN ACT TO FACILITATE JOB SHARING BY PUBLIC SCHOOL EMPLOYEES.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 115C-302.2 is repealed.

**SECTION 2.** Article 22 of Chapter 115C of the General Statutes is amended by adding a new Part to read:

"Part 3A. Job Sharing by School Employees.

**"§ 115C-326.5. Job sharing by school employees.**

(a) The General Assembly finds that there is a shortage of qualified public school employees available in certain geographical areas of the State. The elimination of administrative and fiscal limitations on job-sharing arrangements would make employment in a public school an attractive option for well-qualified persons who do not wish to work full time.

(b) A "school employee in a job-sharing position" is a person who is employed by a local board of education as a public school employee for at least fifty percent (50%) of the applicable workweek, as defined by that local board of education.

(c) The State Board of Education shall adopt rules to facilitate job sharing by public school employees. These rules shall provide that an employee in a job-sharing position shall receive paid legal holidays, annual vacation leave, sick leave, and personal leave on a pro rata basis. Such an employee shall also receive service credit under the Teachers' and State Employees' Retirement System as provided in G.S. 135-4(b) and insurance benefits as provided in Article 3 of Chapter 135 of the General Statutes."

**SECTION 3.** G.S. 135-4(b) reads as rewritten:

"(b) The Board of Trustees shall fix and determine by appropriate rules and regulations how much service in any year is equivalent to one year of service, but in no case shall more than one year of service be creditable for all services in one year. Service rendered for the regular school year in any district shall be equivalent to one year's service. Service rendered by a ~~classroom teacher~~ school employee in a job-sharing position shall be credited at the rate of one-half year for each regular school year of employment."

**SECTION 4.** G.S. 135-40.2(a2) reads as rewritten:

"(a2) A ~~classroom teachers~~ school employee in a job-sharing position as defined in G.S. 115C-302.2(b) shall be eligible for coverage under the Plan, on a partially contributory basis, subject to the provisions of G.S. 135-40.3. If these employees elect to participate in the Plan, the employing unit shall pay fifty percent (50%) of the Plan's total noncontributory premiums. Individual employees shall pay the balance of the total noncontributory premiums not paid by the employing unit."

**SECTION 5.** Nothing in this act shall be construed to require local school administrative units to place part-time employees in job-sharing positions or to hire employees in job-sharing positions.

**SECTION 6.** Sections 1 through 4 of this act become effective January 1, 2004. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 19<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 10:10 a.m. on the 1<sup>st</sup> day of August, 2003.

**H.B. 331**

**Session Law 2003-359**

AN ACT TO MAKE TECHNICAL CHANGES TO THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM, THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM, AND THE DISABILITY INCOME PLAN OF NORTH CAROLINA.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 135-1(7a) reads as rewritten:

"(7a) "Compensation" shall mean all salaries and wages prior to any reduction pursuant to sections 125, 401(k), 403(b), 414(h)(2), and 457 of the Internal Revenue Code, not including any terminal payments for unused sick leave, derived from public funds which are earned by a member of the Retirement System for service as an employee or teacher in the unit of the Retirement System for which he is performing full-time work. In addition to the foregoing, "compensation" shall include:

- a. Performance-based compensation (regardless of whether paid in a lump sum, in periodic installments, or on a monthly basis);
- b. Conversion of additional benefits to salary (additional benefits such as health, life, or disability plans), so long as the benefits are other than mandated by State law or regulation;
- c. Payment of tax consequences for benefits provided by the employer, so long as they constitute an adjustment or increase in salary and not a "reimbursement of expenses";
- d. Payout of vacation leave so long as such payouts are permitted by applicable law and regulation; and
- e. Employee contributions to eligible deferred compensation plans.

"Compensation" shall not include any payment, as determined by the Board of Trustees, for the reimbursement of expenses or payments for housing or any other allowances whether or not classified as salary and wages. "Compensation" includes all special pay contribution of annual leave made to a 401(a) Special Pay Plan for the benefit of an employee. Notwithstanding any other provision of this Chapter, "compensation" shall not include:

- a. Supplement/allowance provided to employee to purchase additional benefits such as health, life, or disability plans;
- b. Travel supplement/allowance (nonaccountable allowance plans);
- c. Employer contributions to eligible deferred compensation plans;
- d. Employer-provided fringe benefits (additional benefits such as health, life, or disability plans);
- e. Reimbursement of uninsured medical expenses;
- f. Reimbursement of business expenses;
- g. Reimbursement of moving expenses;
- h. Reimbursement/payment of personal expenses;
- i. Incentive payments for early retirement;
- j. Bonuses paid incident to retirement;
- k. Contract buyout/severance payments; and
- l. Payouts for unused sick leave.

In the event an employer reports as "compensation" payments not specifically included or excluded as "compensation", such payments shall be "compensation" for retirement purposes only if the employer pays the Retirement System the additional actuarial liability created by such payments."

**SECTION 2.** G.S. 135-1(8) reads as rewritten:

- "(8) "Creditable service" shall mean the total of "prior service" plus "membership service" plus service, both noncontributory and purchased, for which credit is allowable as provided in G.S. 135-4. In no event, however, shall "creditable service" be deemed "membership service" for the purpose of determining eligibility for benefits accruing under this Chapter."

**SECTION 3.** G.S. 135-5(b18) reads as rewritten:

"(b18) Service Retirement Allowance of Members Retiring on or After July 1, 2000, but Before July 1, 2002. – Upon retirement from service in accordance with subsection (a) or (a1) above, on or after July 1, 2000, but before July 1, 2002, a member shall receive the following service retirement allowance.

- (1) A member who is a law enforcement officer or an eligible former law enforcement officer shall receive a service retirement allowance computed as follows:
  - a. If the member's service retirement date occurs on or after his 55th birthday, and completion of five years of creditable service as a law enforcement officer, or after the completion of 30 years of creditable service, the allowance shall be equal to one and eighty-one hundredths percent (1.81%) of his average final compensation, multiplied by the number of years of his creditable service.
  - b. If the member's service retirement date occurs on or after his 50th birthday and before his 55th birthday with 15 or more years of creditable service as a law enforcement officer and prior to the completion of 30 years of creditable service, his retirement allowance shall be equal to the greater of:
    1. The service retirement allowance payable under G.S. 135-5(b18)(1)a. reduced by one-third of one percent (1/3 of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following the month the member would have attained his 55th birthday; or
    2. The service retirement allowance as computed under G.S. 135-5(b18)(1)a. reduced by five percent (5%) times the difference between 30 years and his creditable service at retirement.
- (2) A member who is not a law enforcement officer or an eligible former law enforcement officer shall receive a service retirement allowance computed as follows:
  - a. If the member's service retirement date occurs on or after his 65th birthday upon the completion of five years of membership service or after the completion of 30 years of creditable service or on or after his 60th birthday upon the completion of 25 years of creditable service, the allowance shall be equal to one and eighty-one hundredths percent (1.81%) of his average final compensation, multiplied by the number of years of creditable service.
  - b. If the member's service retirement date occurs after his 60th birthday and before his 65th birthday and prior to his completion of 25 years or more of creditable service, his retirement allowance shall be computed as in G.S. 135-5(b18)(2)a. but shall be reduced by one-quarter of one percent (1/4 of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following his 65th birthday.

- c. If the member's early service retirement date occurs on or after his 50th birthday and before his 60th birthday and after completion of 20 years of creditable service but prior to the completion of 30 years of creditable service, his early service retirement allowance shall be equal to the greater of:
1. The service retirement allowance as computed under G.S. 135-5(b18)(2)a. but reduced by the sum of five-twelfths of one percent ( $5/12$  of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following the month the member would have attained his 60th birthday, plus one-quarter of one percent ( $1/4$  of 1%) thereof for each month by which his 60th birthday precedes the first day of the month coincident with or next following his 65th birthday; or
  2. The service retirement allowance as computed under G.S. 135-5(b18)(2)a. reduced by five percent (5%) times the difference between 30 years and his creditable service at retirement; or
  3. If the member's creditable service commenced prior to July 1, 1994, the service retirement allowance equal to the actuarial equivalent of the allowance payable at the age of 60 years as computed in ~~G.S. 135-5(b18)b.~~ G.S. 135-5(b18)(2)b.
- d. Notwithstanding the foregoing provisions, any member whose creditable service commenced prior to July 1, 1963, shall not receive less than the benefit provided by G.S. 135-5(b)."

**SECTION 4.** G.S. 135-5(b19) reads as rewritten:

"(b19) Service Retirement Allowance of Members Retiring on or After July 1, 2002.  
 – Upon retirement from service in accordance with subsection (a) or (a1) above, on or after July 1, 2002, a member shall receive the following service retirement allowance:

- (1) A member who is a law enforcement officer or an eligible former law enforcement officer shall receive a service retirement allowance computed as follows:
  - a. If the member's service retirement date occurs on or after his 55th birthday, and completion of five years of creditable service as a law enforcement officer, or after the completion of 30 years of creditable service, the allowance shall be equal to one and eighty-two hundredths percent (1.82%) of his average final compensation, multiplied by the number of years of his creditable service.
  - b. If the member's service retirement date occurs on or after his 50th birthday and before his 55th birthday with 15 or more years of creditable service as a law enforcement officer and prior to the completion of 30 years of creditable service, his retirement allowance shall be equal to the greater of:
    1. The service retirement allowance payable under G.S. 135-5(b19)(1)a. reduced by one-third of one percent ( $1/3$  of 1%) thereof for each month by which his retirement



- date precedes the first day of the month coincident with or next following the month the member would have attained his 55th birthday; or
2. The service retirement allowance as computed under G.S. 135-5(b19)(1)a. reduced by five percent (5%) times the difference between 30 years and his creditable service at retirement.
- (2) A member who is not a law enforcement officer or an eligible former law enforcement officer shall receive a service retirement allowance computed as follows:
- a. If the member's service retirement date occurs on or after his 65th birthday upon the completion of five years of membership service or after the completion of 30 years of creditable service or on or after his 60th birthday upon the completion of 25 years of creditable service, the allowance shall be equal to one and eighty-two hundredths percent (1.82%) of his average final compensation, multiplied by the number of years of creditable service.
  - b. If the member's service retirement date occurs after his 60th birthday and before his 65th birthday and prior to his completion of 25 years or more of creditable service, his retirement allowance shall be computed as in G.S. 135-5(b19)(2)a. but shall be reduced by one-quarter of one percent ( $1/4$  of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following his 65th birthday.
  - c. If the member's early service retirement date occurs on or after his 50th birthday and before his 60th birthday and after completion of 20 years of creditable service but prior to the completion of 30 years of creditable service, his early service retirement allowance shall be equal to the greater of:
    1. The service retirement allowance as computed under G.S. 135-5(b19)(2)a. but reduced by the sum of five-twelfths of one percent ( $5/12$  of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following the month the member would have attained his 60th birthday, plus one-quarter of one percent ( $1/4$  of 1%) thereof for each month by which his 60th birthday precedes the first day of the month coincident with or next following his 65th birthday; or
    2. The service retirement allowance as computed under G.S. 135-5(b19)(2)a. reduced by five percent (5%) times the difference between 30 years and his creditable service at retirement; or
    3. If the member's creditable service commenced prior to July 1, 1994, the service retirement allowance equal to the actuarial equivalent of the allowance payable at the

age of 60 years as computed in ~~G.S. 135-5(b19)b.~~ G.S. 135-5(b19)(2)b.

- d. Notwithstanding the foregoing provisions, any member whose creditable service commenced prior to July 1, 1963, shall not receive less than the benefit provided by G.S. 135-5(b)."

**SECTION 5.** G.S. 135-5(g1) reads as rewritten:

"(g1) In the event of the death of a retired member while in receipt of a retirement allowance under the provisions of this Article, there shall be paid to such person or persons as the retiree shall have nominated by written designation duly acknowledged and filed with the Board of Trustees, if such person or persons are living at the time of the retiree's death, otherwise to the retiree's legal representatives, a death benefit equal to the excess, if any, of the accumulated contributions of the retiree at the date of retirement over the total of the retirement allowances paid prior to the death of the retiree.

In the event that a retirement allowance becomes payable to the designated survivor of a retired member under the provisions above and such retirement allowance to the survivor shall terminate upon the death of the survivor before the total of the retirement allowances paid to the retiree and the designated survivor combined equals the amount of the accumulated contributions of the retiree at the date of retirement, the excess, if any, of such accumulated contributions over the total of the retirement allowances paid to the retiree and the survivor combined shall be paid in a lump sum to such person or persons as the retiree shall have nominated by written designation duly acknowledged and filed with the Board of Trustees, if such person or persons are living at the time such payment falls due, otherwise to the retiree's legal representative.

In the event a retiree purchases creditable service as provided in G.S. 135-4, there shall be paid to such person or persons as the retiree shall have nominated by written designation duly acknowledged and filed with the Board of Trustees, if such person or persons are living at the time of the retiree's death, otherwise to the retiree's legal representatives, an additional death benefit equal to the excess, if any, of the cost of the creditable service purchased less the administrative fee, if any, over the total of the increase in the retirement allowance attributable to the additional creditable service, paid from the month following the month in which payment was received to the death of the retiree.

In the event that a retirement allowance becomes payable to the designated survivor of a retired member under the provisions above and such retirement allowance to the survivor shall terminate upon the death of the survivor before the total of the increase in the retirement allowance attributable to the additional creditable service paid to the retiree and the designated survivor combined equals the cost of the creditable service purchased less the administrative fee, the excess, if any, shall be paid in a lump sum to such person or persons as the retiree shall have nominated by written designation duly acknowledged and filed with the Board of Trustees, if such person or persons are living at the time such payment falls due, otherwise to the retiree's legal representative."

**SECTION 6.** G.S. 135-5(m) reads as rewritten:

"(m) Survivor's Alternate Benefit. – Upon the death of a member in service, the principal beneficiary designated to receive a return of accumulated contributions shall have the right to elect to receive in lieu thereof the reduced retirement allowance provided by Option 2 of subsection (g) above computed by assuming that the member had retired on the first day of the month following the date of his death, provided that the following conditions apply:

- (1) a. The member had attained such age and/or creditable service to be eligible to commence retirement with an early or service retirement allowance, ~~or~~
  - b. The member had obtained 20 years of creditable service in which case the retirement allowance shall be computed in accordance with G.S. 135-5(b19)(1)b. or G.S. 135-5(b19)(2)c., notwithstanding the requirement of obtaining age ~~50~~ 50, or
  - c. The member had not commenced to receive a retirement allowance as provided under this Chapter.
- (2) The member had designated as the principal beneficiary to receive a return of his accumulated contributions one and only one person who was living at the time of his death.
- (3) The member had not instructed the Board of Trustees in writing that he did not wish the provisions of this subsection to apply.

For the purpose of this benefit, a member is considered to be in service at the date of his death if his death occurs within 180 days from the last day of his actual service. The last day of actual service shall be determined as provided in subsection (l) of this section. Upon the death of a member in service, the surviving spouse may make all purchases for creditable service as provided for under this Chapter for which the member had made application in writing prior to the date of death, provided that the date of death occurred prior to or within 60 days after notification of the cost to make the purchase. The term "in service" as used in this subsection includes a member in receipt of a benefit under the Disability Income Plan as provided in Article 6 of this Chapter."

**SECTION 7.** G.S. 135-4(f) reads as rewritten:

"(f) Armed Service Credit. –

- (1) Teachers and other State employees who entered the armed services of the United States on or after September 16, 1940, and prior to February 17, 1941, and who returned to the service of the State within a period of two years after they were first eligible to be separated or released from such armed services under other than dishonorable conditions shall be entitled to full credit for all prior service.
- (2) Teachers and other State employees who entered the armed services of the United States on or after September 16, 1940, and who returned to the service of the State prior to October 1, 1952, or who devote not less than 10 years of service to the State after they are separated or released from such armed services under other than dishonorable conditions, shall be entitled to full credit for all prior service, and, in addition they shall receive membership service credit for the period of service in such armed services up to the date they were first eligible to be separated or released therefrom, occurring after the date of establishment of the Retirement System.
- (3) Teachers and other State employees who enter the armed services of the United States on or after July 1, 1950, or who engage in active military service on or after July 1, 1950, and who return to the service of the State within a period of two years after they are first eligible to be separated or released from such active military service under other than dishonorable conditions shall be entitled to full membership

- service credit for the period of such active service in the armed services.
- (4) Under such rules as the Board of Trustees shall adopt, credit will be provided by the Retirement System with respect to each such teacher or other State employee in the amounts that he would have been paid during such service in such armed services on the basis of his earnable compensation when such service commenced. Such contributions shall be credited to the individual account of the member in the annuity savings fund, in such manner as the Board of Trustees shall determine, but any such contributions so credited and any regular interest thereon shall be available to the member only in the form of an annuity, or benefit in lieu thereof, upon his retirement on a service, disability or special retirement allowance; and in the event of cessation of membership or death prior thereto, any such contributions so credited and regular interest thereon shall not be payable to him or on his account, but shall be transferred from the annuity savings fund to the pension accumulation fund. If any payments were made by a member on account of such service as provided by subdivision (5) of subsection (b) of G.S. 135-8, the Board of Trustees shall refund to or reimburse such member for such payments.
  - (5) The provisions of this subsection shall also apply to members of the national guard with respect to teachers and State employees who are called into federal service or who are called into State service, to the extent that such persons fail to receive compensation for performance of the duties of their employment other than for service in the national guard.
  - (6) Repealed by Session Laws 1981, c. 636, s. 1. For proviso as to inchoate or accrued rights, see Editor's Note below.
  - (7) Notwithstanding any other provision of this Chapter, any member and any retired member as herein described may purchase creditable service in the Armed Forces of the United States, not otherwise allowed, by paying a total lump sum payment determined as follows:
    - a. For members who completed 10 years of membership service, and retired members who completed 10 years of membership service prior to retirement, whose ~~current~~ membership began on or prior to July 1, 1981, and who make this purchase within three years after first becoming eligible, the cost shall be an amount equal to the monthly compensation the member earned when he first entered ~~current~~ membership service times the employee contribution rate at that time times the months of service to be purchased, with sufficient interest added thereto so as to equal one-half of the cost of allowing this service, plus an administrative fee to be set by the Board of Trustees.
    - b. For members who complete five years of membership service, and retired members who complete five years of membership service prior to retirement, and eligible members and retired members covered by paragraph a. of this subdivision, whose

~~current~~ membership began on or before July 1, 1981, but who did not or do not make this purchase within three years after first becoming eligible, the cost shall be an amount equal to the full liability of the service credits calculated on the basis of the assumptions used for the purposes of the actuarial valuation of the System's liabilities and shall take into account the retirement allowance arising on account of the additional service credits commencing at the earliest age at which the member could retire on an unreduced allowance, as determined by the Board of Trustees upon the advice of the consulting actuary, plus an administrative fee to be set by the Board of Trustees. Notwithstanding the foregoing provisions of this subsection that provide for the purchase of service credits, the term "full liability" includes assumed post-retirement allowance increases, as determined by the Board of Trustees, from the earliest age at which a member could retire on an unreduced service retirement allowance.

Creditable service allowed under this subdivision shall be only for the initial period of ~~active duty~~ "active duty", as defined in 38 U.S. Code Section 101(21), in the Armed Forces of the United States up to the date the member was first eligible to be separated and released and for subsequent periods of ~~active duty~~ "active duty", as defined in 38 U.S. Code Section 101(21), as required by the Armed Forces of the United States up to the date of first eligibility for separation or release, but shall not include periods of active duty in the Armed Forces of the United States creditable in any other retirement system except the national guard or any reserve component of the Armed Forces of the United States. ~~States, and shall not include periods of "active duty for training", as defined in 38 U.S. Code Section 101(22), or periods of "inactive duty training", as defined in 38 U.S. Code Section 101(23), rendered in any reserve component of the Armed Forces of the United States.~~ Provided, creditable service may be allowed only for active duty in the Armed Forces of the United States of a member that resulted in a general or honorable discharge from duty. The member shall submit satisfactory evidence of the service claimed. For purposes of this subsection, membership service may include any membership or prior service credits transferred to this Retirement System pursuant to G.S. 135-18.1."

**SECTION 8.** G.S. 135-4(l 1) reads as rewritten:

"(l 1) Notwithstanding any other provision of this Chapter, any member and any retired member as herein described may purchase creditable service previously rendered to any state, territory, or other governmental subdivision of the United States other than this State by paying a total lump-sum payment determined as follows:

- (1) For members who completed 10 years of current membership service, and retired members who completed 10 years of current membership service prior to retirement, whose ~~current~~ membership began on or before July 1, 1981, and who make such purchase within three years

after first becoming eligible, the cost shall be an amount equal to the monthly compensation the member earned when he first entered ~~current~~ membership service, times the employee contribution rate at that time, times the months of service to be purchased, times two, with sufficient interest added thereto so as to equal the full cost of allowing such service, plus an administrative fee to be set by the Board of Trustees.

- (2) For members who complete five years of current membership service, and retired members who complete five years of current membership service prior to retirement, and eligible members and retired members covered by subdivision (1) of this subsection, whose ~~current~~ membership began on or before July 1, 1981, but who did not or do not make such purchase within three years after first becoming eligible, the cost shall be an amount equal to the full liability of the service credits calculated on the basis of the assumptions used for the purposes of the actuarial valuation of the System's liabilities and shall take into account the retirement allowance arising on account of the additional service credits commencing at the earliest age at which the member could retire on an unreduced allowance, as determined by the Board of Trustees upon the advice of the consulting actuary, plus an administrative fee to be set by the Board of Trustees. Notwithstanding the foregoing provisions of this subsection that provide for the purchase of service credits, the term "full liability" includes assumed postretirement allowance increases, as determined by the Board of Trustees, from the earliest age at which a member could retire on an unreduced service retirement allowance. Notwithstanding the requirement of five years of current membership service, a member whose membership began prior to the service the member desires to purchase shall be eligible to purchase creditable service under this subdivision upon returning to service as a teacher or employee upon completion of a total of five years of membership service and upon completion of one year of current membership service.

Current membership service shall mean membership service earned since the service previously rendered to any state, territory, or other governmental subdivision of the United States other than this State. Creditable service under this subsection shall be allowed only at the rate of one year of out-of-state service for each ~~two years~~ year of ~~current~~ membership service in this State, with a maximum allowable of 10 years of out-of-state service. Such service is limited to full-time service which would be allowable under the laws governing this System. Credit will be allowed only if no benefit is allowable in another public retirement system as a result of the service."

**SECTION 9.** G.S. 135-4 is amended by adding a new subsection to read:

"(ff) Retroactive Membership Service. – A member who is reinstated to service as an employee as defined in G.S. 135-1(10) or as a teacher as defined in G.S. 135-1(25) retroactively to the date of prior involuntary termination (with backpay and benefits) may be allowed membership service, after submitting clear and convincing evidence of the reinstatement, as follows:

- (1) Within 90 days of the involuntary termination, by the payment of employee and employer contributions that would have been paid; or

- (2) After 90 days of the involuntary termination, by the payment of the employee and employer contributions that would have been paid plus interest compounded annually at a rate equal to the greater of the average yield on the pension accumulation fund for the preceding calendar year or the actuarial investment rate-of-return assumption, as adopted by the Board of Trustees.

Nothing contained in this subsection shall prevent an employer or member from paying all or a part of the cost of the retroactive membership service; and to the extent paid by the employer, the cost paid by the employer shall be credited to the pension accumulation fund; and to the extent paid by the member, the cost paid by the member shall be credited to the member's annuity savings account; provided, however, an employer does not discriminate against any member or group of members in his employ in paying all or any part of the cost of the retroactive membership service.

In the event a member received a return of accumulated contributions subsequent to an involuntary termination as provided in G.S. 135-5(f), the member may redeposit, within 90 days of reinstatement retroactive to the date of prior involuntary termination, in the annuity savings fund by single payment an amount equal to the total amount he previously withdrew plus regular interest and restore the creditable service forfeited upon receiving his return of accumulated contributions."

**SECTION 10.** G.S. 135-8 is amended by adding a new subsection to read:

"(b2) Retroactive Adjustment in Compensation or an Underreporting of Compensation. – A member who is awarded backpay in cases of a denied promotional opportunity in which the aggrieved member is granted a promotion retroactively, or in cases in which an employer errs in the reporting of compensation, including the employee and employer contributions, the member and employer may make employee and employer contributions on the retroactive or additional compensation, after submitting clear and convincing evidence of the retroactive promotion or underreporting of compensation, as follows:

- (1) Within 90 days of the denial of the promotion or the error in reporting, by the payment of employee and employer contributions that would have been paid; or
- (2) After 90 days of the denial of the promotion or the error in reporting, by the payment of the employee and employer contributions that would have been paid plus interest compounded annually at a rate equal to the greater of the average yield on the pension accumulation fund for the preceding calendar year or the actuarial investment rate-of-return assumption, as adopted by the Board of Trustees.

For members electing to make the employee contributions on the retroactive adjustment in compensation or on the underreported compensation, the member's employer, which granted the retroactive promotion or erred in underreporting compensation and contributions, shall make the required employer contributions. Nothing contained in this subsection shall prevent an employer from paying all or a part of the interest assessed on the employee contributions; and to the extent paid by the employer, the interest paid by the employer shall be credited to the pension accumulation fund; provided, however, an employer does not discriminate against any member or group of members in his employ in paying all or any part of the interest assessed on the employee contributions due.

In the event the retroactive adjustment in compensation or the underreported compensation is for a period that occurs during the four consecutive calendar years that would have produced the highest average annual compensation pursuant to G.S. 135-1(5) the compensation the member would have received during the period shall be included in calculating the member's average final compensation only in the event the appropriate employee and employer contributions are paid on such compensation.

An employer error in underreporting compensation shall not include a retroactive increase in compensation that occurs during the four consecutive calendar years that would have produced the highest average annual compensation pursuant to G.S. 135-1(5) for reasons other than a wrongfully denied promotional opportunity where the member is promoted retroactively."

**SECTION 11.** G.S. 135-5(e)(4) reads as rewritten:

"(4) As a condition to the receipt of the disability retirement allowance provided for in G.S. 135-5(d), (d1), (d2) and (d3) each member retired on a disability retirement allowance shall, on or before April 15 of each calendar year, provide the Board of Trustees with a statement of his or her income received as compensation for services, including fees, commissions or similar items, and income received from business, for the previous calendar year. Such statement shall be filed on a form as required by the Board of Trustees. The benefit payable to a beneficiary who does not or refuses to provide the information requested within 60 days after such request shall not be paid a benefit until the information so requested is provided, and should such refusal or failure to provide such information continue for 240 days after such request, the right of a beneficiary to a benefit under the Article may be terminated.

The Director of the State Retirement System shall contact any State or federal agency which can provide information to substantiate the statement required to be submitted by this subdivision and may enter into agreements for the exchange of information."

**SECTION 12.** G.S. 135-4(v) reads as rewritten:

"(v) Omitted Membership Service. – A member who had service as an employee as defined in G.S. 135-1(10) and G.S. 128-21(10) or as a teacher as defined in G.S. 135-1(25) and who was omitted from contributing membership through error may be allowed membership service, after submitting clear and convincing evidence of the error, as follows:

- (1) Within 90 days of the omission, by the payment of employee and employer contributions that would have been paid; or
- (2) After 90 days and prior to three years of the omission, by the payment of the employee and employer contributions that would have been paid plus interest compounded annually at a rate equal to the greater of the average yield on the pension accumulation fund for the preceding calendar year;—year or the actuarial investment rate-of-return assumption, as adopted by the Board of Trustees; or
- (3) After three years of the omission, by the payment of an amount equal to the full cost of the service credits calculated on the basis of the assumptions used for the purposes of the actuarial valuation of the system's liabilities, and shall take into account the additional retirement allowance arising on account of such additional service



credit commencing at the earliest age at which a member could retire on an unreduced retirement allowance, as determined by the Board of Trustees upon the advice of the consulting actuary, plus an administrative fee to be set by the Board of Trustees. Notwithstanding the foregoing provisions of this subdivision that provide for the purchase of service credits, the terms "full cost", "full liability", and "full actuarial cost" include assumed annual post-retirement allowance increases, as determined by the Board of Trustees, from the earliest age at which a member could retire on an unreduced service allowance.

Nothing contained in this subsection shall prevent an employer or member from paying all or a part of the cost of the omitted membership service; and to the extent paid by the employer, the cost paid by the employer shall be credited to the pension accumulation fund; and to the extent paid by the member, the cost paid by the members shall be credited to the member's annuity savings account; provided, however, an employer does not discriminate against any member or group of members in his employ in paying all or any part of the cost of the omitted membership service."

**SECTION 13.** G.S. 128-21(7a) reads as rewritten:

"(7a) "Compensation" shall mean all salaries and wages prior to any reduction pursuant to sections 125, 401(k), 403(b), 414(h)(2), and 457 of the Internal Revenue Code, not including any terminal payments for unused sick leave, derived from public funds which are earned by a member of the Retirement System for service as an employee in the unit of the Retirement System for which he is performing full-time work. In addition to the foregoing, "compensation" shall include:

- a. Performance-based compensation (regardless of whether paid in a lump sum, periodic installments, or on a monthly basis);
- b. Conversion of additional benefits to salary (additional benefits such as health, life, or disability plans), so long as the benefits are other than mandated by State law or regulation;
- c. Payment of tax consequences for benefits provided by the employer so long as they constitute an adjustment or increase in salary and not a "reimbursement of expenses";
- d. Payout of vacation leave so long as such payouts are permitted by applicable law and regulation; and
- e. Employee contributions to eligible deferred compensation plans.

"Compensation" shall not include any payment, as determined by the Board of Trustees, for the reimbursement of expenses or payments for housing or any other allowances whether or not classified as salary and wages. Notwithstanding any other provision of this Chapter, "compensation" shall not include:

- a. Supplement/allowance provided to employee to purchase additional benefits such as health, life, or disability plans;
- b. Travel supplement/allowance (nonaccountable allowance plans);
- c. Employer contributions to eligible deferred compensation plans;

- d. Employer-provided fringe benefits (additional benefits such as health, life, or disability plans);
- e. Reimbursement of uninsured medical expenses;
- f. Reimbursement of business expenses;
- g. Reimbursement of moving expenses;
- h. Reimbursement/payment of personal expenses;
- i. Incentive payments for early retirement;
- j. Bonuses paid incident to retirement;
- k. Contract buyout/severance payments; and
- l. Payouts for unused sick leave.

In the event an employer reports as "compensation" payments not specifically included or excluded as "compensation", such payments shall be "compensation" for retirement purposes only if the employer pays the Retirement System the additional actuarial liability created by such payments."

**SECTION 14.** G.S. 128-21(8) reads as rewritten:

"(8) "Creditable service" shall mean the total of "prior service" plus "membership service" plus service, both noncontributory and purchased, for which credit is allowable as provided in G.S. 128-26. In no event, however, shall "creditable service" be deemed "membership service" for the purpose of determining eligibility for benefits accruing under this Chapter."

**SECTION 15.** G.S. 128-27(g1) reads as rewritten:

"(g1) In the event of the death of a retired member while in receipt of a retirement allowance under the provisions of this Article, there shall be paid to such person or persons as the retiree shall have nominated by written designation duly acknowledged and filed with the Board of Trustees, if such person or persons are living at the time of the retiree's death, otherwise to the retiree's legal representatives, a death benefit equal to the excess, if any, of the accumulated contributions of the retiree at the date of retirement over the total of the retirement allowances paid prior to the death of the retiree.

In the event that a retirement allowance becomes payable to the designated survivor of a retired member under the provisions above and such retirement allowance to the survivor shall terminate upon the death of the survivor before the total of the retirement allowances paid to the retiree and the designated survivor combined equals the amount of the accumulated contributions of the retiree at the date of retirement, the excess, if any, of such accumulated contributions over the total of the retirement allowances paid to the retiree and the survivor combined shall be paid in a lump sum to such person or persons as the retiree shall have nominated by written designation duly acknowledged and filed with the Board of Trustees, if such person or persons are living at the time such payment falls due, otherwise to the retiree's legal representative.

In the event a retiree purchases creditable service as provided in G.S. 128-26, there shall be paid to such person or persons as the retiree shall have nominated by written designation duly acknowledged and filed with the Board of Trustees, if such person or persons are living at the time of the retiree's death, otherwise to the retiree's legal representatives, an additional death benefit equal to the excess, if any, of the cost of the creditable service purchased less the administrative fee, if any, over the total of the increase in the retirement allowance attributable to the additional creditable service,

paid from the month following the month in which payment was received to the death of the retiree.

In the event that a retirement allowance becomes payable to the designated survivor of a retired member under the provisions above, and such retirement allowance to the survivor shall terminate upon the death of the survivor before the total of the increase in the retirement allowance attributable to the additional creditable service paid to the retiree and the designated survivor combined equals the cost of the creditable service purchased less the administrative fee, the excess, if any, shall be paid in a lump sum to such person or persons as the retiree shall have nominated by written designation duly acknowledged and filed with the Board of Trustees, if such person or persons are living at the time such payment falls due, otherwise to the retiree's legal representative."

**SECTION 16.** G.S. 128-27(m) reads as rewritten:

"(m) Survivor's Alternate Benefit. – Upon the death of a member in service, the principal beneficiary designated to receive a return of accumulated contributions shall have the right to elect to receive in lieu thereof the reduced retirement allowance provided by Option two of subsection (g) above computed by assuming that the member had retired on the first day of the month following the date of his death, provided that all three of the following conditions apply:

- (1) a. The member had attained such age and/or creditable service to be eligible to commence retirement with an early or service retirement allowance, ~~or~~
  - b. The member had obtained 20 years of creditable service in which case the retirement allowance shall be computed in accordance with G.S. 128-27(b20)(1)b. or G.S. 128-27(b20)(2)c., notwithstanding the requirement of obtaining age ~~50-50~~, or
  - c. The member had not commenced to receive a retirement allowance as provided under this Chapter.
- (2) The member had designated as the principal beneficiary to receive a return of his accumulated contributions one and only one person who is living at the time of his death.
- (3) The member had not instructed the Board of Trustees in writing that he did not wish the provisions of this subsection apply.

For the purpose of this benefit, a member is considered to be in service at the date of his death if his death occurs within 180 days from the last day of his actual service. The last day of actual service shall be determined as provided in subsection (l) of this section. Upon the death of a member in service, the surviving spouse may make all purchases for creditable service as provided for under this Chapter for which the member had made application in writing prior to the date of death, provided that the date of death occurred prior to or within 60 days after notification of the cost to make the purchase."

**SECTION 17.** G.S. 128-26(j1) reads as rewritten:

"(j1) Notwithstanding any other provision of this Chapter, any member and any retired member as herein described may purchase creditable service for service in the Armed Forces of the United States, not otherwise allowed, by paying a total lump sum payment determined as follows:

- (1) For members who completed 10 years of membership service, and retired members who completed 10 years of membership service prior to retirement, and whose ~~current~~-membership began on or prior to

January 1, 1988, and who make such purchase within three years after first becoming eligible, the cost shall be an amount equal to the monthly compensation the member earned when he first entered ~~current~~ membership service times the employee contribution rate at that time times the months of service to be purchased with sufficient interest added thereto so as to equal one-half of the cost of allowing such service, plus an administrative fee to be set by the Board of Trustees.

- (2) For members who complete five years of membership service, and retired members who complete five years of membership service prior to retirement, and eligible members and retired members covered by paragraph (1) of this subdivision, whose ~~current~~ membership began on or before January 1, 1988, but who did not or do not make such purchase within three years after first becoming eligible, the cost shall be an amount equal to the full liability of the service credits calculated on the basis of the assumptions used for the purposes of the actuarial valuation of the System's liabilities and shall take into account the retirement allowance arising on account of the additional service credits commencing at the earliest age at which the member could retire on an unreduced allowance, as determined by the Board of Trustees upon the advice of the consulting actuary, plus an administrative fee to be set by the Board of Trustees. Notwithstanding the foregoing provisions of this subsection that provide for the purchase of service credits, the term "full liability" includes assumed post-retirement allowance increases, as determined by the Board of Trustees, from the earliest age at which a member could retire on an unreduced service retirement allowance.

Creditable service allowed under this subdivision shall be only for the initial period of ~~active duty~~ "active duty", as defined in 38 U.S. Code Section 101(21), in the Armed Forces of the United States up to the date the member was first eligible to be separated and released and for subsequent periods of ~~active duty~~ "active duty", as defined in 38 U.S. Code Section 101(21), as required by the Armed Forces of the United States up to the date of first eligibility for separation or release, but shall not include periods of active duty in the Armed Forces of the United States creditable in any other retirement system except the national guard or any reserve component of the Armed Forces of the United States. ~~States~~, and shall not include periods of "active duty for training", as defined in 38 U.S. Code Section 101(22), or periods of "inactive duty training", as defined in 38 U.S. Code Section 101(23), rendered in any reserve component of the Armed Forces of the United States. Provided, creditable service may be allowed only for active duty in the Armed Forces of the United States of a member that resulted in a general or honorable discharge from duty. The member shall submit satisfactory evidence of the service claimed. For purposes of this subsection, membership service may include any membership or prior service credits transferred to this Retirement System pursuant to G.S. 128-24."

**SECTION 18.** G.S. 128-26(j2) reads as rewritten:

"(j2) Notwithstanding any other provision of this Chapter, any member and any retired member as herein described may purchase creditable service previously rendered

to any state, territory, or other governmental subdivision of the United States other than this State by paying a total lump-sum payment determined as follows:

- (1) For members who completed 10 years of prior and current membership service, and retired members who completed 10 years of prior and current membership service prior to retirement, and whose ~~current~~ membership began on or before January 1, 1988, and who make such purchase within three years after first becoming eligible, the cost shall be an amount equal to the monthly compensation the member earned when he first entered ~~current~~ membership service, times the employee contribution rate at that time, times the months of service to be purchased, times two, with sufficient interest added thereto so as to equal the full cost of allowing such service, plus an administrative fee to be set by the Board of Trustees.
- (2) For members who complete five years of prior and current membership service, and retired members who complete five years of prior and current membership service prior to retirement, and eligible members and retired members covered by subdivision (1) of this subsection, whose ~~current~~ membership began on or before January 1, 1988, but who did not or do not make such purchase within three years after first becoming eligible, the cost shall be an amount equal to the full liability of the service credits calculated on the basis of the assumptions used for the purposes of the actuarial valuation of the System's liabilities and shall take into account the retirement allowance arising on account of the additional service credits commencing at the earliest age at which the member could retire on an unreduced allowance, as determined by the Board of Trustees upon the advice of the consulting actuary, plus an administrative fee to be set by the Board of Trustees. Notwithstanding the foregoing provisions of this subsection that provide for the purchase of service credits, the term "full liability" includes assumed postretirement allowance increases, as determined by the Board of Trustees, from the earliest age at which a member could retire on an unreduced service retirement allowance. Notwithstanding the requirement of five years of current membership service, a member whose membership began prior to the service the member desires to purchase shall be eligible to purchase creditable service under this subdivision upon returning to service as an employee upon completion of a total of five years of membership service and upon completion of one year of current membership service.

Current membership service shall mean membership service earned since the service previously rendered to any state, territory, or other governmental subdivision of the United States other than this State. Creditable service under this subsection shall be allowed only at the rate of one year of out-of-state service for each ~~two years~~ year of service in this State, with a maximum allowable of 10 years of out-of-state service. Such service is limited to full-time service which would be allowable under the laws governing this System. Credit will be allowed only if no benefit is allowable in another public retirement system as a result of the service."

**SECTION 19.** G.S. 128-26 is amended by adding a new subsection to read:

"(v) Retroactive Membership Service. – A member who is reinstated to service as an employee as defined in G.S. 128-21(10) retroactively to the date of prior involuntary termination (with backpay and benefits) may be allowed membership service, after submitting clear and convincing evidence of the reinstatement, as follows:

- (1) Within 90 days of the involuntary termination, by the payment of employee and employer contributions that would have been paid; or
- (2) After 90 days of the involuntary termination, by the payment of the employee and employer contributions that would have been paid plus interest compounded annually at a rate equal to the greater of the average yield on the pension accumulation fund for the preceding calendar year or the actuarial investment rate-of-return assumption, as adopted by the Board of Trustees.

Nothing contained in this subsection shall prevent an employer or member from paying all or a part of the cost of the retroactive membership service; and to the extent paid by the employer, the cost paid by the employer shall be credited to the pension accumulation fund; and to the extent paid by the member, the cost paid by the member shall be credited to the member's annuity savings account; provided, however, an employer does not discriminate against any member or group of members in his employ in paying all or any part of the cost of the retroactive membership service.

In the event a member received a return of accumulated contributions subsequent to an involuntary termination as provided in G.S. 128-27(f), the member may redeposit, within 90 days of reinstatement retroactive to the date of prior involuntary termination, in the annuity savings fund by single payment, an amount equal to the total amount he previously withdrew plus regular interest and restore the creditable service forfeited upon receiving his return of accumulated contributions."

**SECTION 20.** G.S. 128-30 is amended by adding a new subsection to read:

"(b2) Retroactive Adjustment in Compensation or an Underreporting of Compensation. – A member who is awarded backpay in cases of a denied promotional opportunity in which the aggrieved member is granted a promotion retroactively, or in cases in which an employer errs in the reporting of compensation, including the employee and employer contributions, the member and employer may make employee and employer contributions on the retroactive or additional compensation after submitting clear and convincing evidence of the retroactive promotion or underreporting of compensation, as follows:

- (1) Within 90 days of the denial of the promotion or the error in reporting, by the payment of employee and employer contributions that would have been paid; or
- (2) After 90 days of the denial of the promotion or the error in reporting, by the payment of the employee and employer contributions that would have been paid plus interest compounded annually at a rate equal to the greater of the average yield on the pension accumulation fund for the preceding calendar year or the actuarial investment rate-of-return assumption, as adopted by the Board of Trustees.

For members electing to make the employee contributions on the retroactive adjustment in compensation or on the underreported compensation, the member's employer, which granted the retroactive promotion or erred in underreporting compensation and contributions, shall make the required employer contributions. Nothing contained in this subsection shall prevent an employer from paying all or a part

of the interest assessed on the employee contributions; and to the extent paid by the employer, the interest paid by the employer shall be credited to the pension accumulation fund; provided, however, an employer does not discriminate against any member or group of members in his employ in paying all or any part of the interest assessed on the employee contributions due.

In the event the retroactive adjustment in compensation or the underreported compensation is for a period that occurs during the four consecutive calendar years that would have produced the highest average annual compensation pursuant to G.S. 135-1(5), the compensation the member would have received during the period shall be included in calculating the member's average final compensation only in the event the appropriate employee and employer contributions are paid on such compensation.

An employer error in underreporting compensation shall not include a retroactive increase in compensation that occurs during the four consecutive calendar years that would have produced the highest average annual compensation pursuant to G.S. 135-1(5), for reasons other than a wrongfully denied promotional opportunity where the member is promoted retroactively."

**SECTION 21.** G.S. 128-27(e)(4) reads as rewritten:

"(4) As a condition to the receipt of the disability retirement allowance provided for in G.S. 128-27(d), (d1), (d2) and (d3) each member retired on a disability retirement allowance shall, on or before April 15 of each calendar year, provide the Board of Trustees with a statement of his or her income received as compensation for services, including fees, commissions or similar items, and income received from business, for the previous calendar year. Such statement shall be filed on a form as required by the Board of Trustees. The benefit payable to a beneficiary who does not or refuses to provide the information requested within 60 days after such request shall not be paid a benefit until the information so requested is provided, and should such refusal or failure to provide such information continue for 240 days after such request, the right of a beneficiary to a benefit under the Article may be terminated.

The Director of the State Retirement Systems shall contact any State or federal agency which can provide information to substantiate the statement required to be submitted by this subdivision and may enter into agreements for the exchange of information."

**SECTION 22.** G.S. 128-26(m) reads as rewritten:

"(m) Omitted Membership Service. – A member who had service as an employee as defined in G.S. 135-1(10) and G.S. 128-21(10) or as a teacher as defined in G.S. 135-1(25) and who was omitted from contributing membership through error may be allowed membership service, after submitting clear and convincing evidence of the error, as follows:

- (1) within 90 days of the omission, by the payment of employee and employer contributions that would have been paid; or
- (2) after 90 days and prior to three years of the omission, by the payment of the employee and employer contributions that would have been paid plus interest compounded annually at a rate equal to the greater of the average yield on the pension accumulation fund for the preceding calendar year;—year or the actuarial investment rate-of-return assumption, as adopted by the Board of Trustees; or

- (3) after three years of the omission, by the payment of an amount equal to the full cost of the service credits calculated on the basis of the assumptions used for the purposes of the actuarial valuation of the System's liabilities, and shall take into account the additional retirement allowance arising on account of such additional service credit commencing at the earliest age at which a member could retire on an unreduced retirement allowance, as determined by the Board of Trustees upon the advice of the consulting actuary, plus an administrative fee to be set by the Board of Trustees. Notwithstanding the foregoing provisions of this subdivision that provide for the purchase of service credits, the terms "full cost", "full liability", and "full actuarial cost" include assumed annual post-retirement allowance increases, as determined by the Board of Trustees, from the earliest age at which a member could retire on an unreduced service allowance.

Nothing contained in this subsection shall prevent an employer or member from paying all or a part of the cost of the omitted membership service; and to the extent paid by the employer, the cost paid by the employer shall be credited to the pension accumulation fund; and to the extent paid by the member, the cost paid by the members shall be credited to the member's annuity savings account; provided, however, an employer does not discriminate against any member or group of members in his employ in paying all or any part of the cost of the omitted membership service. In the event an employer pays all or a part of the full actuarial cost as determined in subdivision (3) of this subsection, the employer may, at its option, pay such amount either in a lump sum or by increasing its "accrued liability contribution" for the remainder of its accrued liability period. In the event an employer has satisfied its accrued liability contribution, the employer may amortize its portion of the full actuarial cost over a period not to exceed ten years. The expense of making an actuarial valuation to determine the accrued liability contribution or the additional accrued liability contribution, required to amortize the portion of the full actuarial cost paid by the employer, shall be paid by the employer in a lump sum at the time of the actuarial valuation."

**SECTION 23.** G.S. 135-109 reads as rewritten:

**"§ 135-109. Reports of earnings.**

The Department of State Treasurer and Board of Trustees shall require each beneficiary to annually provide a ~~copy of the beneficiary's federal income tax return certified by the beneficiary to be a true and exact copy of such tax return filed with the United States Internal Revenue Service and shall require such other statements of earnings as may be necessary to administer the provisions of this Article.~~ statement of the beneficiary's income received as compensation for services, including fees, commissions, or similar items, income received from business, and benefits received from the Social Security Administration, the federal Veterans Administration, any other federal agency, under the North Carolina Workers' Compensation Act, or under the provisions of G.S. 127A-108. The benefit payable to a beneficiary who does not or refuses to provide the information requested within 60 days after such request shall not be paid a benefit until the information so requested is provided, and should such refusal or failure to provide such information continue for ~~180-240~~ 180-240 days after such request the right of a beneficiary to a benefit under the Article ~~shall~~ may be terminated."



**SECTION 24.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 17<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 10:11 a.m. on the 1<sup>st</sup> day of August, 2003.

**S.B. 705**

**Session Law 2003-360**

AN ACT TO AUTHORIZE THE CONSTRUCTION AND THE FINANCING, WITHOUT APPROPRIATIONS FROM THE GENERAL FUND, OF CERTAIN CAPITAL IMPROVEMENTS PROJECTS OF THE CONSTITUENT INSTITUTIONS OF THE UNIVERSITY OF NORTH CAROLINA.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** The purpose of this act is: (i) to authorize the construction by certain constituent institutions of The University of North Carolina, of the capital improvements projects listed in the act for the respective institutions, and (ii) to authorize the financing of these projects with funds available to the institutions from gifts, grants, receipts, self-liquidating indebtedness, or other funds, or any combination of these funds, but not including funds appropriated from the General Fund of the State.

**SECTION 2.** The capital improvements projects, and their respective costs, authorized by this act to be constructed and financed as provided in Sections 1 and 6 of this act are as follows:

1	Appalachian State University Athletic Facilities 400-Space Parking Deck	35,800,000 5,000,000
2	East Carolina University College Hill Residence Halls - Phase I Renovation of Clement, Greene, and White Residence Halls	35,000,000 4,950,000
3	North Carolina A&T State University Renovation of the Memorial Student Union	2,700,000
4	North Carolina Central University 500-Space Parking Deck	5,000,000
5	North Carolina State University Renovation of Berry, Becton, and Bagwell Residence Halls E.S. King Village Community Center Student Fitness Center Partners V Building Renovations to Thompson Theatre, Talley, Witherspoon and Price Music Center Derr Track, Softball, and Soccer Complex Renovations to Reynolds Coliseum	10,000,000 2,000,000 12,000,000 18,000,000 6,000,000 1,000,000 5,000,000

6	The University of North Carolina at Chapel Hill	
	Rizzo Center - Expansion	18,000,000
	McColl Building Addition	18,000,000
	Botanical Garden Visitor Education Center	6,000,000
	Ackland Art Museum - Expansion	16,000,000
	Printing Services	3,500,000
	ITS Building	12,300,000
	Former YMCA Renovation	3,500,000
	Student Family Housing	30,000,000
	Cobb Residence Hall - Renovation	9,884,000
	Parking Facilities	19,200,000
	Major Infrastructure Improvements & Waste Remediation	52,000,000
7	University of North Carolina at Charlotte	
	Student Union	39,700,000
	Baseball Stadium Improvements	3,000,000
8	University of North Carolina at Greensboro	
	Exercise Track	1,000,000
	Ragsdale/Mendenhall, and Weil/Winfeld Residence Halls - Renovations	3,300,000
	Elliot University Center Library Connector	1,500,000
	Gove Health Center	8,500,000
	Softball Field and Stadium Complex	3,000,000
9	Western Carolina University	
	New Student Residence Hall	13,161,000
	Residence Hall Renovation	10,264,700
	Parking Deck - 500 Spaces	6,250,000
	Dodson Cafeteria Renovation	4,927,400
	Softball Field and Stadium	2,320,000

**SECTION 3.** The capital improvements projects, and their respective costs, authorized by this act to be financed as provided in Section 1 and Section 5 of this act, are as follows:

1	The University of North Carolina at Chapel Hill	
	Burnett-Womack Building	7,395,000
	Beard Hall Renovations	2,394,000
	Science Complex, Phase I	8,854,000
	Manning Steam Plant	13,212,360
	Global and International Studies Facility	5,000,000
	Cogeneration-Turbine Improvements	24,000,000
2	The University of North Carolina at Pembroke	
	Auxiliary Services Building	1,500,000
	Improvements to Recreational, Athletic, and Physical Education Facilities	600,000

**SECTION 4.** At the request of the Board of Governors of The University of North Carolina and upon determining that it is in the best interest of the State to do so, the Director of the Budget may authorize an increase or decrease in the cost of, or a change in the method of, funding the projects authorized by this act. In determining whether to authorize a change in cost or funding, the Director of the Budget shall consult with the Joint Legislative Commission on Governmental Operations.

**SECTION 5.** Pursuant to G.S. 116D-26, the Board of Governors may issue, subject to the approval of the Director of the Budget, at one time or from time to time, special obligation bonds of the Board of Governors for the purpose of paying all or any part of the cost of acquiring, constructing, or providing for the projects authorized by this act. The maximum principal amount of bonds to be issued shall not exceed the specified project costs in Sections 2 and 3 of this act plus fifteen million dollars (\$15,000,000) for related additional costs, such as issuance expenses, funding of reserve funds, and capitalized interest.

**SECTION 6.** With respect to three projects at the University of North Carolina at Chapel Hill, the Rizzo Center Expansion, the Ackland Art Museum Expansion, and Student Family Housing, the institution may accomplish construction and financing through lease arrangements to and from nonprofit corporations as follows:

1. Rizzo Center through lease with the Kenan-Flagler Business School Foundation.
2. Ackland Art Museum through lease with the University of North Carolina at Chapel Hill Foundation, Inc.
3. Student Family Housing through lease with the University of North Carolina at Chapel Hill Foundation, Inc.

**SECTION 7.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 18<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 10:12 a.m. on the 1<sup>st</sup> day of August, 2003.

## **H.B. 328**

## **Session Law 2003-361**

AN ACT REVISING REAL ESTATE LICENSING EXAMINATION PROCEDURES, CLARIFYING CONTINUING EDUCATION REQUIREMENTS FOR REAL ESTATE LICENSEES, AND ENABLING THE REAL ESTATE COMMISSION TO PERMIT LIMITED COMMERCIAL PRACTICE BY NONRESIDENT REAL ESTATE BROKERS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 93A-4(b) reads as rewritten:

"(b) Except as otherwise provided in this Chapter, any person who submits an application to the Commission in proper manner for a license as real estate broker or a license as real estate salesperson shall be required to take an ~~oral or written~~ examination. ~~The Commission may allow an applicant to elect to take the examination by computer as an alternative to the written or oral examination and may be administered orally, by computer, or by any other method the Commission deems appropriate.~~ The Commission may require the applicant to pay the Commission or a provider contracted by the Commission the actual cost of administering the

~~computerized examination~~ the examination and its administration. The cost of the ~~computerized examination and its administration~~ shall be in addition to any other fees the applicant is required to pay under subsection (a) of this section. The examination shall determine the applicant's qualifications with due regard to the paramount interests of the public as to the applicant's competency. A person holding a real estate salesperson license in this State and applying for a real estate broker license shall not be required to take an additional examination under this subsection. A person who fails the license examination shall be entitled to know the result and score. A person who passes the exam shall be notified only that the person passed the examination. Whether a person passed or failed the examination shall be a matter of public record; however, the scores for license examinations shall not be considered public records. Nothing in this subsection shall limit the rights granted to any person under G.S. 93B-8.

An applicant for licensure under this Chapter shall satisfy the Commission that he or she possesses the competency, honesty, truthfulness, integrity, and general moral character necessary to protect the public interest and promote public confidence in the real estate brokerage business. The Commission may investigate the moral character of each applicant for licensure and require an applicant to provide the Commission with a criminal record report. All applicants shall obtain criminal record reports from one or more reporting services designated by the Commission to provide criminal record reports. Applicants are required to pay the designated reporting service for the cost of these reports. If the results of any required competency examination and investigation of the applicant's moral character shall be satisfactory to the Commission, then the Commission shall issue to the applicant a license, authorizing the applicant to act as a real estate broker or real estate salesperson in the State of North Carolina, upon the payment of privilege taxes now required by law or that may hereafter be required by law."

**SECTION 2.** G.S. 93A-4A(a) reads as rewritten:

"(a) The Commission shall establish a program of continuing education for real estate brokers and salespersons. ~~A person licensed as a real estate broker or salesperson must present evidence to the Commission upon the second license renewal following initial licensure, and every renewal thereafter, that during the 12 months preceding the annual license expiration date the person has completed eight classroom hours of real estate instruction in courses approved by the Commission.~~ An individual licensed as a real estate broker or salesperson is required to complete continuing education requirements in an amount not to exceed eight classroom hours of instruction a year during any license renewal period in subjects and at times the Commission deems appropriate. Any licensee who fails to complete continuing education requirements pursuant to this section shall not actively engage in the business of real estate broker or salesperson."

**SECTION 3.** G.S. 93A-9 reads as rewritten:

**"§ 93A-9. Licensing nonresidents.**

(a) An applicant from another state, which offers licensing privileges to residents of North Carolina, may be licensed by conforming to all the provisions of this Chapter and, in the discretion of the Commission, such other terms and conditions as are required of North Carolina residents applying for license in such other state; provided that the Commission may exempt from the examination prescribed in G.S. 93A-4 a broker or salesperson duly licensed in another state if a similar exemption is extended to licensed brokers and salespersons from North Carolina.

(b) The Commission may issue a limited broker's or salesperson's license to a person or an entity from another state or territory of the United States without regard to whether that state or territory offers similar licensing privileges to residents in North Carolina if the person or entity satisfies all of the following:

- (1) Is of good moral character and licensed as a real estate broker or salesperson in good standing in another state or territory of the United States.
- (2) Only engages in business as a real estate broker or salesperson in North Carolina in transactions involving commercial real estate and while the person or entity is affiliated with a resident North Carolina real estate broker or salesperson.
- (3) Complies with the laws of this State regulating real estate brokers and salespersons and rules adopted by the Commission.

The Commission may require an applicant for licensure under this subsection to pay a fee not to exceed three hundred dollars (\$300.00). All licenses issued under this subsection shall expire on June 30 of each year following issuance or on a date that the Commission deems appropriate unless the license is renewed pursuant to the requirements of G.S. 93A-4. A person or entity licensed under this subsection may be disciplined by the Commission for violations of this Chapter as provided in G.S. 93A-6 and G.S. 93A-54.

Any person or entity licensed under this subsection shall be affiliated with a resident North Carolina real estate broker or salesperson, and the resident North Carolina real estate broker or salesperson shall actively and personally supervise the licensee in a manner that reasonably assures that the licensee complies with the requirements of this Chapter and rules adopted by the Commission. The Commission may exempt applicants for licensure under this subsection from examination and the other licensing requirements under G.S. 93A-4. The Commission may adopt rules as it deems necessary to give effect to this subsection, including rules establishing: (i) qualifications for licensure; (ii) licensure and renewal procedures; (iii) requirements for continuing education; (iv) conduct of persons and entities licensed under this subsection and their affiliated resident real estate brokers or salespersons; (v) a definition of commercial real estate; and (vi) any requirements or limitations on affiliation between resident real estate brokers or salespersons and persons or entities seeking licensure under this subsection."

**SECTION 4.** G.S. 93A-10 reads as rewritten:

**"§ 93A-10. Nonresident licensees; filing of consent as to service of process and pleadings.**

Every nonresident applicant shall file an irrevocable consent that suits and actions may be commenced against such applicant in any of the courts of record of this State, by the service of any process or pleading authorized by the laws of this State in any county in which the plaintiff may reside, by serving the same on the Executive Director of the Commission, said consent stipulating and agreeing that such service of such process or pleadings on said Executive Director shall be taken and held in all courts to be valid and binding as if due service had been made personally upon the applicant in this State. This consent shall be duly acknowledged, and, if made by a corporation, shall be ~~authenticated by its seal~~ executed by an officer of the corporation. The signature of the officer on the consent to service instrument shall be sufficient to bind the corporation and no further authentication is necessary. An application from a corporation or other business entity shall be ~~accompanied by a duly certified copy of the resolution of the board of directors, authorizing the proper officers to execute it~~ signed

by an officer of the corporation or entity or by an individual designated by the Commission. In all cases where process or pleadings shall be served, under the provisions of this Chapter, upon the Executive Director of the Commission, such process or pleadings shall be served in duplicate, one of which shall be filed in the office of the Commission and the other shall be forwarded immediately by the Executive Director of the Commission, by registered mail, to the last known business address of the nonresident licensee against which such process or pleadings are directed."

**SECTION 5.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 19<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 10:31 a.m. on the 1<sup>st</sup> day of August, 2003.

## H.B. 543

## Session Law 2003-362

AN ACT TO INCLUDE DEPUTY FIRE MARSHALS, ASSISTANT FIRE MARSHALS, AND COUNTY FIREFIGHTERS AS ELIGIBLE MEMBERS OF THE FIREMEN'S AND RESCUE SQUAD WORKERS' PENSION FUND.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 58-86-25 reads as rewritten:

"§ **58-86-25. "Eligible firemen" defined; determination and certification of volunteers meeting qualifications.**

"Eligible firemen" shall mean all firemen of the State of North Carolina or any political subdivision thereof, including those performing such functions in the protection of life and property through fire fighting within a county or city governmental unit and so certified to the Commissioner of Insurance by the governing body thereof, and who belong to a bona fide fire department which, as determined by the Commissioner, is classified as not less than class "9" or class "A" and "AA" departments in accordance with rating methods, schedules, classifications, underwriting rules, bylaws or regulations effective or applied with respect to the establishment of rates or premiums used or charged pursuant to Article 36 or 40 of this Chapter or by such other reasonable methods as the Commissioner may determine, and which operates fire apparatus and equipment of the value of five thousand dollars (\$5,000) or more, and said fire department holds drills and meetings not less than four hours monthly and said firemen attend at least 36 hours of all drills and meetings in each calendar year. "Eligible firemen" shall also mean an employee of a county whose sole duty is to act as fire marshal ~~fire marshal~~, deputy fire marshal, assistant fire marshal, or firefighter of the county, provided the board of county commissioners of that county certifies the ~~fire marshal's~~ employee's attendance at no less than 36 hours of all drills and meetings in each calendar year. "Eligible firemen" shall also mean those persons meeting the other qualifications of this section, not exceeding 25 volunteer firemen plus one additional volunteer fireman per 100 population in the area served by their respective departments. Each department shall annually determine and report the names of those firemen meeting the eligibility qualifications of this section to its respective governing body, which upon determination of the validity and accuracy of the qualification shall promptly certify the list to the North Carolina State Firemen's Association. The Firemen's Association shall provide a list of those persons meeting the eligibility

requirements of this section to the State Treasurer by July 1 of each year. For the purposes of the preceding sentence, the governing body of a fire department operated by a county is the county board of commissioners; by a city is the city council; by a sanitary district is the sanitary district board; by a corporation, whether profit or nonprofit, is the corporation's board of directors; and by any other entity is that group designated by the board."

**SECTION 2.** This act becomes effective July 1, 2003.

In the General Assembly read three times and ratified this the 17<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 10:34 a.m. on the 1<sup>st</sup> day of August, 2003.

**H.B. 694**

**Session Law 2003-363**

AN ACT TO DESIGNATE THE ASHEBORO MUNICIPAL AIRPORT AS THE OFFICIAL LOCATION OF THE NORTH CAROLINA AVIATION HALL OF FAME AND THE NORTH CAROLINA AVIATION MUSEUM AND TO DESIGNATE THE WILMINGTON INTERNATIONAL AIRPORT AS THE OFFICIAL LOCATION OF THE NORTH CAROLINA MUSEUM OF AVIATION.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Chapter 145 of the General Statutes is amended by adding a new section to read:

**"§ 145-21. State Aviation Hall of Fame and Museum and State Museum of Aviation.**

The Asheboro Municipal Airport is designated as the official location of the North Carolina Aviation Hall of Fame and the North Carolina Aviation Museum. The Wilmington International Airport is designated as the official location of the North Carolina Museum of Aviation."

**SECTION 2.** Nothing in this act shall be construed to obligate the General Assembly to appropriate funds to implement the provisions of this act.

**SECTION 3.** Nothing in this act shall be construed to obligate the City of Asheboro, the City of Wilmington, Randolph County, or New Hanover County to expend funds for the purposes of this act.

**SECTION 4.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 19<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 10:37 a.m. on the 1<sup>st</sup> day of August, 2003.

**H.B. 751**

**Session Law 2003-364**

AN ACT RELATING TO THE TITLE TO EXISTING LAND AND THE LAND BUILT UP AND CONSTRUCTED IN THE TOWN OF KITTY HAWK IN THE COUNTY OF DARE AS A RESULT OF CERTAIN EROSION CONTROL WORK IN SAID TOWN AND ANNEXING A TRACT TO THE CORPORATE LIMITS OF THAT TOWN.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** The following tract of land is hereby granted and conveyed by the State of North Carolina to the Town of Kitty Hawk in fee simple without reservation of any public trust rights:

All that certain tract or parcel of land lying and being on the Atlantic Ocean in the Town of Kitty Hawk, Atlantic Township, Dare County, North Carolina, bounded on the North by a parcel of land owned by Vincent R. Mascitti et ux, bounded on the East by the mean lower low water mark of the Atlantic Ocean, bounded on the South by a parcel of land owned by Pelican Perch, L.L.C., and bounded on the West by the East right-of-way margin of North Carolina Highway 12, also known as Virginia Dare Trail, and more particularly described as follows:

All that certain tract or parcel of land which now exists or after the completion of the Project will exist within the following boundaries: between the East right-of-way margin of North Carolina Highway 12, otherwise known as Virginia Dare Trail, and the mean lower low water mark of the Atlantic Ocean; and between the North boundary line of that certain lot or parcel lying in the Town of Kitty Hawk, Atlantic Township, Dare County, North Carolina, and known and designated as Lot No. 13 of the Kitty Hawk Beach Terrace Subdivision, as shown and delineated on a map or plat of said subdivision made by J. L. Liverman, Registered Surveyor, dated June, 1946 and recorded in Map Book 1, Page 159, of the Dare County Registry, and as more particularly described in that certain deed from Janet L. Verscharen to Joseph W. Verscharen, dated June 26, 1995, and recorded in Book 1001, Page 892, of the Dare County Registry, and the South boundary line of that certain lot or parcel of land lying in the Town of Kitty Hawk, Atlantic Township, Dare County, North Carolina, and located at 3955 North Virginia Dare Trail, and more particularly described as Tract IV in that certain deed from A. Toby Hedgepeth et ux, to Hedgepeth Enterprises, dated August 10, 1983, recorded in Book 352, Page 854, of the Dare County Registry.

**SECTION 2.** The State of North Carolina shall execute and deliver to the Town of Kitty Hawk a deed in recordable form for the property conveyed by Section 1 of this act.

**SECTION 3.** The corporate limits of the Town of Kitty Hawk are extended to include the tract described in Section 1 of this act.

**SECTION 4.** The grant and conveyance in Section 1 of this act includes all future made, constructed, or created land in the tract described in Section 1 of this act.

**SECTION 5.** The Town of Kitty Hawk shall maintain the tract described in Section 1 of this act for public use and benefit.

**SECTION 6.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 18<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 10:38 a.m. on the 1<sup>st</sup> day of August, 2003.



## H.B. 819

## Session Law 2003-365

AN ACT TO STRENGTHEN THE REQUIREMENT THAT THE COUNTY BOARDS OF ELECTIONS MUST PROVIDE BEYOND THE BUFFER ZONE AROUND THE VOTING PLACE A SPACE WHERE CAMPAIGNING AND OTHER ELECTION-RELATED ACTIVITY CAN BE CONDUCTED.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 163-166.4 reads as rewritten:

"§ 163-166.4. **Limitation on activity in the voting place and in a buffer zone around it.**

(a) Buffer Zone and Adjacent Area for Election-Related Activity. – No person or group of persons shall hinder access, harass others, distribute campaign literature, place political advertising, solicit votes, or otherwise engage in election-related activity in the voting place or in a buffer zone which shall be prescribed by the county board of elections around the voting place. In determining the dimensions of that buffer zone for each voting place, the county board of elections shall, where practical, set the limit at 50 feet from the door of entrance to the voting place, measured when that door is closed, but in no event shall it set the limit at more than 50 feet or at less than 25 feet. ~~The~~ Except as provided in subsection (b), the county board of elections shall also, where practical, also provide an area adjacent to the buffer zone for each voting place in which persons or groups of persons may distribute campaign literature, place political advertising, solicit votes, or otherwise engage in election-related activity.

(b) Special Agreements About Election-Related Activity. – The Executive Director of the State Board of Elections may grant special permission for a county board of elections to enter into an agreement with the owners or managers of a nonpublic building to use the building as a voting place on the condition that election-related activity as described in subsection (a) of this section not be permitted on their property adjacent to the buffer zone, if the Executive Director finds all of the following:

- (1) That no other suitable voting place can be secured for the precinct.
- (2) That the county board will require the chief judge of the precinct to monitor the grounds around the voting place to ensure that the restriction on election-related activity shall apply to all candidates and parties equally.
- (3) That the pattern of voting places subject to agreements under this subsection does not disproportionately favor any party, racial or ethnic group, or candidate.

An agreement under this subsection shall be valid for as long as the nonpublic building is used as a voting place.

(c) Notice About Buffer Zone. – No later than 30 days before each election, the county board of elections shall make available to the public the following information concerning each voting place:

- (1) The door from which the buffer zone is measured.
- (2) The distance the buffer zone extends from that door.
- (3) Any available information concerning where political activity, including sign placement, ~~that~~ is permitted beyond the buffer zone."

**SECTION 2.** This act becomes effective January 1, 2004.

In the General Assembly read three times and ratified this the 19<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 10:38 a.m. on the 1<sup>st</sup> day of August, 2003.

**H.B. 886****Session Law 2003-366**

AN ACT TO AMEND CERTAIN PROVISIONS OF ARTICLE 1, CHAPTER 90 OF THE GENERAL STATUTES RELATING TO THE NORTH CAROLINA MEDICAL BOARD AND THE PRACTICE OF MEDICINE.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 90-2 reads as rewritten:

**"§ 90-2. Medical Board.**

(a) ~~In order to properly regulate the practice of medicine and surgery for the benefit and protection of the people of North Carolina, there is established the North Carolina Medical Board.~~ There is established the North Carolina Medical Board to regulate the practice of medicine and surgery for the benefit and protection of the people of North Carolina. The Board shall consist of 12 members.

- (1) Seven of the members shall be duly licensed physicians elected and nominated to the Governor by the North Carolina Medical Society.
- (2) Of the remaining five members, all to be appointed by the Governor, one shall be a duly licensed physician who is a doctor of osteopathy or a full-time faculty member of one of the medical schools in North Carolina who utilizes integrative medicine in that person's clinical practice or a member of The Old North State Medical Society, ~~at least~~ three shall be public members and ~~at least~~ one shall be a physician assistant as defined in G.S. 90-18.1 or a nurse practitioner as defined in G.S. 90-18.2. A public member shall not be a health care provider nor the spouse of a health care provider. For purposes of board membership, "health care provider" means any licensed health care professional and any agent or employee of any health care institution, health care insurer, health care professional school, or a member of any allied health profession. For purposes of this section, a person enrolled in a program to prepare him to be a licensed health care professional or an allied health professional shall be deemed a health care provider. For purposes of this section, any person with significant financial interest in a health service or profession is not a public member.

(a1) Each appointing and nominating authority shall endeavor to see, insofar as possible, that its appointees and nominees to the Board reflect the composition of the State with regard to gender, ethnic, racial, and age composition.

(b) No member ~~appointed to the Board on or after November 1, 1981,~~ shall serve more than two complete consecutive three-year terms, except that each member shall serve until his a successor is chosen and qualifies.

(c) ~~In order to establish regularly overlapping terms, the terms of office of the members shall expire as follows: two on October 31, 1993; four on October 31, 1994; four on October 31, 1995; and two on October 31, 1996.~~

(d) Any member of the Board may be removed from office by the Governor for good cause shown. Any vacancy in the physician membership of the Board shall be filled for the period of the unexpired term by the Governor from a list of physicians submitted by the North Carolina Medical Society Executive Council. Any vacancy in the public, physician assistant, or nurse practitioner membership of the Board shall be filled by the Governor for the unexpired term.

(e) The North Carolina Medical Board shall have the power to acquire, hold, rent, encumber, alienate, and otherwise deal with real property in the same manner as any private person or corporation, subject only to approval of the Governor and the Council of State as to the acquisition, rental, encumbering, leasing, and sale of real property. Collateral pledged by the Board for an encumbrance is limited to the assets, income, and revenues of the Board."

**SECTION 2.** Article 1 of Chapter 90 of the General Statutes is amended by adding a new section to read:

**"§ 90-2.1. Integrative medicine defined.**

For purposes of this Article, the term "integrative medicine" means a diagnostic or therapeutic treatment that may not be considered a conventionally accepted medical treatment and that a licensed physician in the physician's professional opinion believes may be of potential benefit to the patient, so long as the treatment poses no greater risk of harm to the patient than the comparable conventional treatments."

**SECTION 3.** G.S. 90-14(a)(11) reads as rewritten:

" ...

(11) Lack of professional competence to practice medicine with a reasonable degree of skill and safety for patients. In this connection the Board may consider repeated acts of a physician indicating the physician's failure to properly treat a patient. The Board may, upon reasonable grounds, require a physician to submit to inquiries or examinations, written or oral, by members of the Board or by other physicians licensed to practice medicine in this State, as the Board deems necessary to determine the professional qualifications of such licensee. In order to annul, suspend, deny, or revoke a license of an accused person, the Board shall find by the greater weight of the evidence that the care provided was not in accordance with the standards of practice for the procedures or treatments administered."

**SECTION 4.** G.S. 90-14 is amended by adding a new subsection to read:

"(g) Prior to taking action against any licensee who practices integrative medicine for providing care not in accordance with the standards of practice for the procedures or treatments administered, the Board shall consult with a licensee who practices integrative medicine."

**SECTION 5.** G.S. 90-14.6 reads as rewritten:

**"§ 90-14.6. Evidence admissible.**

(a) In proceedings held pursuant to this Article the Board shall admit and hear evidence in the same manner and form as prescribed by law for civil actions. A complete record of such evidence shall be made, together with the other proceedings incident to such hearing.

(b) Subject to the North Carolina Rules of Civil Procedure and Rules of Evidence, in proceedings held pursuant to this Article, the licensee under investigation may call witnesses, including medical practitioners licensed in the United States, with expertise in the same field of practice as the licensee under investigation, and the Board

shall consider this testimony. Witnesses shall not be restricted to experts certified by the American Board of Medical Specialties.

(c) Subject to the North Carolina Rules of Civil Procedure and Rules of Evidence, statements contained in medical or scientific literature shall be competent evidence in proceedings held pursuant to this Article."

**SECTION 6.** Section 1 becomes effective October 1, 2003, and applies to positions on the Board only upon their expiration. Current members of the Board eligible to be reappointed to the Board may be reappointed, notwithstanding Section 1. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 18<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 10:40 a.m. on the 1<sup>st</sup> day of August, 2003.

**H.B. 974****Session Law 2003-367**

AN ACT TO PROHIBIT THE PURCHASE OF RECONSTITUTED OR RECOMBINED FLUID MILK BY ANY DEPARTMENT, INSTITUTION, OR AGENCY OF THE STATE.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Article 3 of Chapter 143 of the General Statutes is amended by adding a new section to read:

**"§ 143-59.3. Contracts for the purchase of reconstituted or recombined fluid milk products prohibited.**

(a) As used in this section, 'fluid milk product' has the same meaning as in 7 Code of Federal Regulations § 1000.15 (1 January 2003 Edition).

(b) No department, institution, or agency of the State shall enter into any contract for the purchase of any fluid milk product that is labeled or that is required to be labeled as 'reconstituted' or 'recombined'.

(c) The Secretary of Administration may temporarily suspend the provisions of subsection (b) of this section in case of any emergency or pressing need as provided in G.S. 143-57."

**SECTION 2.** This act becomes effective 1 October 2003 and applies to any contract entered into on or after that date.

In the General Assembly read three times and ratified this the 16<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 10:41 a.m. on the 1<sup>st</sup> day of August, 2003.

**H.B. 1049****Session Law 2003-368**

AN ACT TO ALLOW LICENSED PSYCHOLOGICAL ASSOCIATES TO RECEIVE PAYMENT FOR SERVICES FROM INSURERS AND TO INCREASE THE FEE THE PSYCHOLOGY BOARD MAY CHARGE FOR A TEMPORARY LICENSE.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 58-50-30(b) reads as rewritten:

"(b) For the purposes of this section, a "duly licensed psychologist" is a-a:

- (1) ~~licensed~~Licensed psychologist who holds permanent licensure and certification as a health services provider psychologist issued by the North Carolina Psychology ~~Board.~~ Board; or
- (2) Licensed psychological associate who holds permanent licensure."

**SECTION 2.** G.S. 135-40.7B(c) reads as rewritten:

"(c) Notwithstanding any other provisions of this Part, the following providers and no others may provide necessary care and treatment for mental health under this section:

- (1) Psychiatrists who have completed a residency in psychiatry approved by the American Council for Graduate Medical Education and who are licensed as medical doctors or doctors of osteopathy in the state in which they perform and services covered by the Plan;
- (2) Licensed or certified doctors of psychology;
- (3) Certified clinical social workers and licensed clinical social workers;
- (3a) Licensed professional counselors;
- (4) Certified clinical specialists in psychiatric and mental health nursing;
- (4a) Nurses working under the employment and direct supervision of such physicians, psychologists, or psychiatrists;
- (5) Repealed by Session Laws 1997-512, s. 14.
- (6) ~~Psychological associates with a masters degree in psychology under the direct employment and supervision of a licensed psychiatrist or licensed or certified doctor of psychology;~~Licensed psychological associates;
- (7), (8) Repealed by Session Laws 1997-512, s. 14.
- (9) Certified fee-based practicing pastoral counselors;
- (10) Licensed physician assistants under the supervision of a licensed psychiatrist and acting pursuant to G.S. 90-18.1 or the applicable laws and rules of the area in which the physician assistant is licensed or certified; and
- (11) Licensed marriage and family therapists."

**SECTION 3.** G.S. 135-40.7B(c1) reads as rewritten:

"(c1) Notwithstanding any other provisions of this Part, the following providers and no others may provide necessary care and treatment for chemical dependency under this section:

- (1) The following providers with appropriate substance abuse training and experience in the field of alcohol and other drug abuse as determined by the mental health case manager, in facilities described in subdivision (b)(2) of this section, in day/night programs or outpatient treatment facilities licensed after July 1, 1984, under Article 2 of Chapter 122C of the General Statutes or in North Carolina area programs in substance abuse services are authorized to provide treatment for chemical dependency under this section:
  - a. Licensed physicians including, but not limited to, physicians who are certified in substance abuse by the American Society of Addiction Medicine (ASAM);
  - b. Licensed or certified psychologists;
  - c. Psychiatrists;

- d. Certified substance abuse counselors working under the direct supervision of such physicians, psychologists, or psychiatrists;
  - e. ~~Psychological associates with a masters degree in psychology working under the direct supervision of such physicians, psychologists, or psychiatrists;~~ Licensed psychological associates;
  - f. Nurses working under the direct supervision of such physicians, psychologists, or psychiatrists;
  - g. Certified clinical social workers and licensed clinical social workers;
  - h. Certified clinical specialists in psychiatric and mental health nursing;
  - i. Licensed professional counselors;
  - j. Certified fee-based practicing pastoral counselors;
  - k. Substance abuse professionals certified under Article 5C of Chapter 90 of the General Statutes; and
  - l. Licensed marriage and family and therapists.
- (2) The following providers with appropriate substance abuse training and experience in the field of alcohol and other drug abuse as determined by the mental health case manager are authorized to provide treatment for chemical dependency in outpatient practice settings:
- a. Licensed physicians including, but not limited to, physicians who are certified in substance abuse by the American Society of Addiction Medicine (ASAM);
  - b. Licensed or certified psychologists;
  - c. Psychiatrists;
  - d. Certified substance abuse counselors working under the direct supervision of such physicians, psychologists, or psychiatrists;
  - e. ~~Psychological associates with a masters degree in psychology working under the direct supervision of such physicians, psychologists, or psychiatrists;~~ Licensed psychological associates;
  - f. Nurses working under the direct supervision of such physicians, psychologists, or psychiatrists;
  - g. Certified clinical social workers and licensed clinical social workers;
  - h. Certified clinical specialists in psychiatric and mental health nursing;
  - i. Licensed professional counselors;
  - j. Certified fee-based practicing pastoral counselors;
    - 1. Substance abuse professionals certified under Article 5C of Chapter 90 of the General Statutes;
  - jl. Licensed marriage and family and therapists; and
  - k. In the absence of meeting one of the criteria above, the Mental Health Case Manager could consider, on a case-by-case basis, a provider who supplies:
    - 1. Evidence of graduate education in the diagnosis and treatment of chemical dependency, and

2. Supervised work experience in the diagnosis and treatment of chemical dependency (with supervision by an appropriately credentialed provider), and
3. Substantive past and current continuing education in the diagnosis and treatment of chemical dependency commensurate with one's profession.

Provided, however, that nothing in this subsection shall prohibit the Plan from requiring the most cost-effective treatment setting to be utilized by the person undergoing necessary care and treatment for chemical dependency."

**SECTION 4.** G.S. 90-270.18 reads as rewritten:

"§ 90-270.18. **Disposition and schedule of fees.**

(a) ~~All~~Except for fees paid directly to the vendor as provided in subdivision (b)(2) of this section, all fees derived from the operation of this Article shall be deposited with the State Treasurer to the credit of a revolving fund for the use of the Board in carrying out its functions. All fees derived from the operation of this Article shall be nonrefundable.

(b) Fees for activities specified by this Article are as follows:

- (1) Application fees for licensed psychologists and licensed psychological associates per G.S. 90-270.11(a) and (b)(1), or G.S. 90-270.13, shall not exceed one hundred dollars (\$100.00).
- (2) Fees for the national written examination shall be the cost of the examination ~~to the Board as set by the vendor~~ plus an additional fee not to exceed fifty dollars (\$50.00). The Board may require applicants to pay the fee directly to the vendor.
- (3) Fees for additional examinations shall be as prescribed by the Board.
- (4) Fees for the renewal of licenses, per G.S. 90-270.14(a)(1), shall not exceed two hundred fifty dollars (\$250.00) per biennium. This fee may not be prorated.
- (5) Late fees for license renewal, per G.S. 90-270.14(a)(1), shall be twenty-five dollars (\$25.00).
- (6) Fees for the reinstatement of a license, per G.S. 90-270.15(f), shall not exceed one hundred dollars (\$100.00).
- (7) Fees for a duplicate license, per G.S. 90-270.14(b), shall be twenty-five dollars (\$25.00).
- (8) Fees for a temporary license, per G.S. 90-270.5(f) and 90-270.5(g), shall be ~~twenty-five~~ thirty-five dollars ~~(\$25.00)~~ (\$35.00).
- (9) Application fees for a health services provider certificate, per G.S. 90-270.20, shall be fifty dollars (\$50.00).

(c) The Board may specify reasonable charges for duplication services, materials, and returned bank items in its rules."

**SECTION 5.** This act becomes effective January 1, 2004, and applies to services rendered by psychological associates on and after that date.

In the General Assembly read three times and ratified this the 17<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 10:42 a.m. on the 1<sup>st</sup> day of August, 2003.

AN ACT TO FACILITATE THE SUBMISSION OF COMPLETE CLAIMS BY PROVIDERS UNDER HEALTH BENEFIT PLANS BY REQUIRING HEALTH BENEFIT PLANS TO DISCLOSE TO CONTRACT PROVIDERS THE PLANS' SCHEDULES OF FEES AND CLAIMS SUBMISSION AND REIMBURSEMENT POLICIES, AND TO PROVIDE NOTICE TO THE PROVIDER PRIOR TO IMPLEMENTING CHANGES TO THE SCHEDULES OR POLICIES.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Article 3 of Chapter 58 of the General Statutes is amended by adding a new section to read:

**"§ 58-3-227. Health plans fee schedules.**

(a) Definitions. – As used in this section, the following terms mean:

- (1) Claim submission policy. – The procedure adopted by an insurer and used by a provider or facility to submit to the insurer claims for services rendered and to seek reimbursement for those services.
- (2) Health care facility or facility. – A facility that is licensed under Chapter 131E or Chapter 122C of the General Statutes or is owned or operated by the State of North Carolina in which health care services are provided to patients.
- (3) Health care provider or provider. – An individual who is licensed, certified, or otherwise authorized under Chapter 90 or Chapter 90B of the General Statutes or under the laws of another state to provide health care services in the ordinary course of business or practice of a profession or in an approved education or training program.
- (4) Insurer. – An entity that writes a health benefit plan and that is an insurance company subject to this Chapter, a service corporation under Article 65 of this Chapter, a health maintenance organization under Article 67 of this Chapter, or a multiple employer welfare arrangement under Article 49 of this Chapter, except it does not include an entity that writes stand alone dental insurance.
- (5) Reimbursement policy. – Information relating to payment of providers and facilities including policies on the following:
  - a. Claims bundling and other claims editing processes.
  - b. Recognition or nonrecognition of CPT code modifiers.
  - c. Downcoding of services or procedures.
  - d. The definition of global surgery periods.
  - e. Multiple surgical procedures.
  - f. Payment based on the relationship of procedure code to diagnosis code.
- (6) Schedule of fees. – CPT, HCPCS, ICD-9-CM codes, ASA codes, modifiers, and other applicable codes for the procedures billed for that class of provider.

(b) Purpose. – The purpose of this section is to establish the minimum required provisions for the disclosure and notification of an insurer's schedule of fees, claims submission, and reimbursement policies to health care providers and health care facilities. Nothing in this section shall supercede (i) the schedule of fees, claim submission, and reimbursement policy terms in an insurer's contract with a provider or



facility that exceed the minimum requirements of this section nor (ii) any contractual requirement for mutual written consent of changes to reimbursement policies, claims submission policies, or fees. Nothing in this section shall prevent an insurer from requiring that providers and facilities keep confidential, and not disclose to third parties, the information that an insurer must provide under this section.

(c) Disclosure of Fee Schedules. – An insurer shall make available to contracted providers the following information:

- (1) The insurer's schedule of fees associated with the top 30 services or procedures most commonly billed by that class of provider, and, upon request, the full schedule of fees for services or procedures billed by that class of provider, in accordance with subdivision (3) of this subsection.
- (2) In the case of a contract incorporating multiple classes of providers, the insurer's schedule of fees associated with the top 30 services or procedures most commonly billed for each class of provider, and, upon request, the full schedule of fees for services or procedures billed for each class of provider, in accordance with subdivision (3) of this subsection.
- (3) If a provider requests fees for more than 30 services and procedures, the insurer may require the provider to specify the additional requested services and procedures and may limit the provider's access to the additional schedule of fees to those associated with services and procedures performed by or reasonably expected to be performed by the provider. The insurer may also limit the frequency of requests for the additional codes by each provider, provided that such additional codes will be made available upon request at least annually and at any time there are changes for which notification is required pursuant to subsection (f) of this section.

(d) Disclosure of Policies. – An insurer shall make available to contracted providers and facilities a description of the insurer's claim submission and reimbursement policies.

(e) Availability of Information. – Insurers shall notify contracted providers and facilities in writing of the availability of information required or authorized to be provided under this section. An insurer may satisfy this requirement by indicating in the contract with the provider the availability of this information or by providing notice in a manner authorized under subsection (f) of this section for notification of changes.

(f) Notification of Changes. – Insurers shall provide advance notice to providers and facilities of changes to the information that insurers are required to provide under this section. The notice period for a change in the schedule of fees, reimbursement policies, or submission of claims policies shall be the contractual notice period, but in no event shall the notices be given less than 30 days prior to the change. An insurer is not required to provide advance notice of changes to the information required under this section if the change has the effect of increasing fees, expanding health benefit plan coverage, or is made for patient safety considerations, in which case, notification of the changes may be made concurrent with the implementation of the changes. Information and notice of changes may be provided in the medium selected by the insurer, including an electronic medium. However, the insurer must inform the affected contracted provider or facility of the notification method to be used by the insurer and, if the insurer uses an electronic medium to provide notice of changes required under this

section, the insurer shall provide clear instructions regarding how the provider or facility may access the information contained in the notice.

(g) Reference Information. – If an insurer references source information that is the basis for a schedule of fees, reimbursement policy, or claim submission policy, and the source information is developed independently of the insurer, the insurer may satisfy the requirements of this section by providing clear instructions regarding how the provider or facility may readily access the source information or by providing for actual access if agreed to in the contract between the insurer and the provider.

(h) Contract Negotiations. – When an insurer offers a contract to a provider, the insurer shall also make available its schedule of fees associated with the top 30 services or procedures most commonly billed by that class of provider. Upon the request of a provider, the insurer shall also make available the full schedule of fees for services or procedures billed by that class of provider or for each class of provider in the case of a contract incorporating multiple classes of providers. If a provider requests fees for more than 30 services and procedures, the insurer may require the provider to specify the additional requested services and procedures and may limit the provider's access to the additional schedule of fees to those associated with services and procedures performed by or reasonably expected to be performed by the provider.

(i) Exemptions. – Except for the information required to be provided under subsection (c) of this section, this section does not apply to:

- (1) Claims processed by an insurer on a claims adjudication system that was implemented prior to January 1, 1982, provided that the insurer (i) verifies with the Commissioner that its claims adjudication system qualified under this subsection, (ii) is implementing a new claims adjudication software system, and (iii) is proceeding in good faith to move all insured claims to the new system as soon as possible and in any event no later than December 31, 2004; or
- (2) Information that the insurer verifies with the Commissioner is required to be provided by the terms of a national settlement agreement between the insurer and trade associations representing certain providers, provided that the agreement is approved prior to March 1, 2004, by the court having jurisdiction over the settlement. The exemption provided in this subdivision shall be limited to those terms of the agreement that are required to be implemented no later than December 31, 2004. Nothing in this subdivision shall be construed to relieve the insurer of complying with any terms and deadlines as set out in the agreement."

**SECTION 2.** On or before the applicable effective dates, each insurer shall provide to the Commissioner of Insurance a written description of the policies and procedures to be used by the insurer to comply with this act.

**SECTION 3.** Sections 2 and 3 of this act are effective when they become law. Subsection (c) of G.S. 58-3-227, as enacted by Section 1 of this act, becomes effective January 1, 2004, and applies to the earlier of the following: (i) a contract issued, renewed, or modified on or after January 1, 2004; or (ii) any fee schedule request made on or after July 1, 2004. The remainder of this act becomes effective March 1, 2004. Subsection (i) of G.S. 58-3-227 as enacted by Section 1 of this act, expires on January 1, 2005.

In the General Assembly read three times and ratified this the 18<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 10:47 a.m. on the 1<sup>st</sup> day of August, 2003.

**S.B. 847**

**Session Law 2003-370**

AN ACT TO CLARIFY LATE FEES CHARGED TO RESIDENTIAL TENANTS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 42-46(a) reads as rewritten:

"(a) In all residential rental agreements in which a definite time for the payment of the rent is fixed, the parties may agree to a late fee not to exceed fifteen dollars (\$15.00) or five percent (5%) of the rental payment, whichever is greater, to be charged by the lessor inconsistent with the provisions of this subsection, to be chargeable only if any rental payment is five days or more late. If the rent:

- (1) Is due in monthly installments, a landlord may charge a late fee not to exceed fifteen dollars (\$15.00) or five percent (5%) of the monthly rent, whichever is greater.
- (2) Is due in weekly installments, a landlord may charge a late fee not to exceed four dollars (\$4.00) or five percent (5%) of the weekly rent, whichever is greater.
- (3) Is subsidized by the United States Department of Housing and Urban Development, by the United States Department of Agriculture, by a State agency, by a public housing authority, or by a local government, any late fee shall be calculated in accordance with subdivisions (1) and (2) of this subsection on the tenant's share of the contract rent only, and the rent subsidy shall not be included."

**SECTION 2.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 16<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 10:56 a.m. on the 1<sup>st</sup> day of August, 2003.

**H.B. 1126**

**Session Law 2003-371**

AN ACT ESTABLISHING COLLABORATIVE LAW PROCEDURES UNDER CHAPTER 50 OF THE GENERAL STATUTES WHEREBY PARTIES SEEKING A DIVORCE AND THEIR ATTORNEYS MAY SETTLE THEIR DISPUTES BY WRITTEN AGREEMENT WITH LIMITED JUDICIAL INTERVENTION.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Chapter 50 of the General Statutes is amended by adding a new Article to read:

"Article 4.

"Collaborative Law Proceedings.

**"§ 50-70. Collaborative law.**

As an alternative to judicial disposition of issues arising in a civil action under this Article, except for a claim for absolute divorce, on a written agreement of the parties

and their attorneys, a civil action may be conducted under collaborative law procedures as set forth in this Article.

**"§ 50-71. Definitions.**

As used in this article, the following terms mean:

- (1) Collaborative law. – A procedure in which a husband and wife who are separated and are seeking a divorce, or are contemplating separation and divorce, and their attorneys agree to use their best efforts and make a good faith attempt to resolve their disputes arising from the marital relationship on an agreed basis. The procedure shall include an agreement by the parties to attempt to resolve their disputes without having to resort to judicial intervention, except to have the court approve the settlement agreement and sign the orders required by law to effectuate the agreement of the parties as the court deems appropriate. The procedure shall also include an agreement where the parties' attorneys agree not to serve as litigation counsel, except to ask the court to approve the settlement agreement.
- (2) Collaborative law agreement. – A written agreement, signed by a husband and wife and their attorneys, that contains an acknowledgement by the parties to attempt to resolve the disputes arising from their marriage in accordance with collaborative law procedures.
- (3) Collaborative law procedures. – The process for attempting to resolve disputes arising from a marriage as set forth in this Article.
- (4) Collaborative law settlement agreement. – An agreement entered into between a husband and wife as a result of collaborative law procedures that resolves the disputes arising from the marriage of the husband and wife.
- (5) Third-party expert. – A person, other than the parties to a collaborative law agreement, hired pursuant to a collaborative law agreement to assist the parties in the resolution of their disputes.

**"§ 50-72. Agreement requirements.**

A collaborative law agreement must be in writing, signed by all the parties to the agreement and their attorneys, and must include provisions for the withdrawal of all attorneys involved in the collaborative law procedure if the collaborative law procedure does not result in settlement of the dispute.

**"§ 50-73. Tolling of time periods.**

A validly executed collaborative law agreement shall toll all legal time periods applicable to legal rights and issues under law between the parties for the amount of time the collaborative law agreement remains in effect. This section applies to any applicable statutes of limitations, filing deadlines, or other time limitations imposed by law or court rule, including setting a hearing or trial in the case, imposing discovery deadlines, and requiring compliance with scheduling orders.

**"§ 50-74. Notice of collaborative law agreement.**

(a) No notice shall be given to the court of any collaborative law agreement entered into prior to the filing of a civil action under this Article.

(b) If a civil action is pending, a notice of a collaborative law agreement, signed by the parties and their attorneys, shall be filed with the court. After the filing of a notice of a collaborative law agreement, the court shall take no action in the case,

including dismissal, unless the court is notified in writing that the parties have done one of the following:

- (1) Failed to reach a collaborative law settlement agreement.
- (2) Both voluntarily dismissed the action.
- (3) Asked the court to enter a judgment or order to make the collaborative law settlement agreement an act of the court in accordance with G.S. 50-75.

**"§ 50-75. Judgment on collaborative law settlement agreement.**

A party is entitled to an entry of judgment or order to effectuate the terms of a collaborative law settlement agreement if the agreement is signed by each party to the agreement.

**"§ 50-76. Failure to reach settlement; disposition by court; duty of attorney to withdraw.**

(a) If the parties fail to reach a settlement and no civil action has been filed, either party may file a civil action, unless the collaborative law agreement first provides for the use of arbitration or alternative dispute resolution.

(b) If a civil action is pending and the collaborative law procedures do not result in a collaborative law settlement agreement, upon notice to the court, the court may enter orders as appropriate, free of the restrictions of G.S. 50-74(b).

(c) If a civil action is filed or set for trial pursuant to subsection (a) or (b) of this section, the attorneys representing the parties in the collaborative law proceedings may not represent either party in any further civil proceedings and shall withdraw as attorney for either party.

**"§ 50-77. Privileged and inadmissible evidence.**

(a) All statements, communications, and work product made or arising from a collaborative law procedure are confidential and are inadmissible in any court proceeding. Work product includes any written or verbal communications or analysis of any third-party experts used in the collaborative law procedure.

(b) All communications and work product of any attorney or third-party expert hired for purposes of participating in a collaborative law procedure shall be privileged and inadmissible in any court proceeding, except by agreement of the parties.

**"§ 50-78. Alternate dispute resolution permitted.**

Nothing in this Article shall be construed to prohibit the parties from using, by mutual agreement, other forms of alternate dispute resolution, including mediation or binding arbitration, to reach a settlement on any of the issues included in the collaborative law agreement. The parties' attorneys for the collaborative law proceeding may also serve as counsel for any form of alternate dispute resolution pursued as part of the collaborative law agreement.

**"§ 50-79. Collaborative law procedures surviving death.**

Consistent with G.S. 50-20(1), the personal representative of the estate of a deceased spouse may continue a collaborative law procedure with respect to equitable distribution that has been initiated by a collaborative law agreement prior to death, notwithstanding the death of one of the spouses. The provisions of G.S. 50-73 shall apply to time limits applicable under G.S. 50-20(1) for collaborative law procedures continued pursuant to this section."

**SECTION 2.** This act becomes effective October 1, 2003.

In the General Assembly read three times and ratified this the 19<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 11:01 a.m. on the 1<sup>st</sup> day of August, 2003.

**S.B. 324****Session Law 2003-372**

AN ACT TO INCREASE THE HOMEOWNERS RECOVERY FUND PERMIT FEE.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 87-15.6(b) reads as rewritten:

"(b) Whenever a general contractor applies for the issuance of a permit for the construction of any single-family residential dwelling unit or for the alteration of an existing single-family residential dwelling unit, a city or county building inspector shall collect from the general contractor a fee in the amount of ~~five dollars (\$5.00)~~ ten dollars (\$10.00) for each dwelling unit to be constructed or altered under the permit. The city or county inspector shall forward ~~four dollars (\$4.00)~~ nine dollars (\$9.00) of each fee collected to the Board on a quarterly basis and the city or county may retain one dollar (\$1.00) of each fee collected. The Board shall deposit the fees received into the Fund. The Board may accept donations and appropriations to the Fund. G.S. 87-7 shall not apply to the Fund.

The Board may suspend collection of this fee for any year upon a determination that the amount in the Fund is sufficient to meet likely disbursements from the Fund for that year. The Board shall notify city and county building inspectors when it suspends collection of the fee."

**SECTION 2.** This act becomes effective August 1, 2003 and applies to fees due for applications submitted on or after that date.

In the General Assembly read three times and ratified this the 18<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 11:02 a.m. on the 1<sup>st</sup> day of August, 2003.

**S.B. 659****Session Law 2003-373**

AN ACT TO DIRECT THE DEPARTMENT OF THE SECRETARY OF STATE TO INCLUDE IN ITS ANNUAL REPORT INFORMATION REGARDING SOLICITATIONS OF CHARITABLE CONTRIBUTIONS THAT INFORMS THE PUBLIC OF THE PERCENTAGES OF THE SOLICITORS' REVENUES THAT CHARITABLE ORGANIZATIONS OR SPONSORS WILL RECEIVE AS BENEFITS FROM SOLICITATION CAMPAIGNS, TO PROVIDE FOR WIDER DISSEMINATION OF THE ANNUAL REPORT TO THE PUBLIC AND TO EXEMPT CERTAIN NONPROFIT FIRE OR EMERGENCY MEDICAL SERVICE ORGANIZATIONS FROM REPORTING AND OTHER REQUIREMENTS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 131F-30 reads as rewritten:

**"§ 131F-30. Public information; annual report.**

(a) Public Information Program. – The Department shall develop a public information program to further the purposes of this Chapter. The purpose of the program is to help the public recognize unlawful, misleading, deceptive, or fraudulent solicitations and make knowledgeable, informed decisions concerning contributions.

(b) Information to Be Included. – The program shall include information concerning:

- (1) The laws governing solicitations, including licensing and disclosure requirements, prohibited acts, and penalties.
- (2) The means by which the public can report suspected violations or file a complaint.
- (3) Any other information the Department believes will assist the public in making knowledgeable and informed decisions concerning contributions.

(c) Annual Report. – The Department shall prepare an annual report to be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives and to be made available to the public by publishing it on the Department's web site, summarizing the information filed under this Chapter which the Department determines will assist the public in making informed and knowledgeable decisions concerning contributions. The report shall include the following:

- (1) A list of complaints filed for which violations were found to have occurred in each of the following categories: charitable organizations, sponsors, solicitors, and fund-raising consultants.
- (2) A list of the number of investigations by the Department, enforcement actions commenced under this Chapter, and the disposition of those actions.
- (3) A list of those charitable organizations and sponsors that have voluntarily submitted an audited financial statement pursuant to G.S. 131F-6(a)(10) or an audit with an opinion prepared by an independent certified public accountant.
- (4) A list of all solicitors licensed under this Chapter and the fixed percentage of the gross revenue that the charitable organization or sponsor will receive as a benefit from the solicitation campaign, the reasonable estimate of the percentage of the gross revenue that the charitable organization or sponsor will receive as a benefit from the solicitation campaign, or the guaranteed minimum percentage of the gross revenue that the charitable solicitation or sponsor will receive as a benefit from the solicitation campaign as provided in the contract between the solicitor and the charitable organization or sponsor, whichever of these three amounts is least. This list shall appear in order of percentages, from lowest to highest.

(d) Each year immediately following the submission of the report under subsection (c) of this section, the Secretary of State shall issue that report as a press release to all print and electronic news media that provide general coverage."

**SECTION 2.** G.S. 131F-16(h) reads as rewritten:

"(h) Financial Report. – Within 90 days after a solicitation campaign has been completed and on the anniversary of the commencement of a solicitation campaign lasting more than one year, the solicitor shall provide to the charitable organization or sponsor and file with the Department a financial report of the campaign, including the

gross revenue ~~received and~~ received, an itemization of all expenses ~~incurred~~ incurred, and the fixed percentage of the gross revenue that the charitable organization or sponsor received as a benefit from the solicitation campaign. The report shall be completed on a form provided by the Department and shall be signed by an authorized official of the solicitor who shall certify under oath that the report is true and correct."

**SECTION 3.** G.S. 131F-3 reads as rewritten:

**"§ 131F-3. Exemptions.**

The following are exempt from the provisions of this Chapter:

- (1) Any person who solicits charitable contributions for a religious institution.
- (2) Solicitation of charitable contributions by the federal, State, or local government, or any of their agencies.
- (3) Any person who receives less than twenty-five thousand dollars (\$25,000) in contributions in any calendar year and does not provide compensation to any officer, trustee, organizer, incorporator, fund-raiser, or solicitor.
- (4) Any educational institution, the curriculum of which, in whole or in part, is registered, approved, or accredited by the Southern Association of Colleges and Schools or an equivalent regional accrediting body, and any educational institution in compliance with Article 39 of Chapter 115C of the General Statutes, and any foundation or department having an established identity with any of these educational institutions.
- (5) Any hospital licensed pursuant to Article 5 of Chapter 131E or Article 2 of Chapter 122C of the General Statutes and any foundation or department having an established identity with that hospital if the governing board of the hospital, authorizes the solicitation and receives an accounting of the funds collected and expended.
- (6) Any noncommercial radio or television station.
- (7) A qualified community trust as provided in 26 C.F.R. § 1.170A-9(e)(10) through (e)(14).
- (8) A bona fide volunteer or bona fide employee or salaried officer of a charitable organization or sponsor.
- (9) An attorney, investment counselor, or banker who advises a person to make a charitable contribution.
- (10) A volunteer fire department, rescue squad, or emergency medical service.
- (11) A Young Men's Christian Association or a Young Women's Christian Association.
- (12) A nonprofit continuing care facility licensed under Article 64 of Chapter 58 of the General Statutes.
- (13) Any tax exempt nonprofit fire or emergency medical service organization involved in the sale of goods or services that does not ask for a donation."

**SECTION 4.** This act becomes effective January 1, 2004.

In the General Assembly read three times and ratified this the 18<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 11:03 a.m. on the 1<sup>st</sup> day of August, 2003.



## S.B. 561

## Session Law 2003-374

AN ACT TO ELIMINATE THE REQUIREMENT THAT NOTICE OF LEGISLATIVE MEETINGS BE POSTED ON THE PRESS ROOM DOOR; TO SUBSTITUTE A REQUIREMENT OF MAILING AND ELECTRONIC POSTING OF THE MEETING NOTICE, AND TO REQUIRE APPOINTING AUTHORITIES TO PROVIDE ADDITIONAL INFORMATION REGARDING APPOINTEES TO CERTAIN STATE COMMISSIONS, COUNCILS, COMMITTEES, AND BOARDS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 143-318.14A(b) reads as rewritten:

"(b) Reasonable public notice of all meetings of commissions, committees, and standing subcommittees of the General Assembly shall be given. For purposes of this subsection, "reasonable public notice" includes, but is not limited to:

- (1) Notice given openly at a session of the Senate or of the House; or
- (2) Notice posted on the press room door of the State Legislative Building in Raleigh and delivered, mailed or sent by electronic mail to those who have requested notice, and to the Legislative Services Office-Office, which shall post the notice on the General Assembly web site.

G.S. 143-318.12 shall not apply to meetings of commissions, committees, and standing subcommittees of the General Assembly."

**SECTION 2.** G.S. 143-47.7 reads as rewritten:

**"§ 143-47.7. Notice and record of appointment required.**

(a) Within ~~60~~30 days after acceptance of appointment by a person appointed to public office, the appointing authority shall file written notice of ~~such~~the appointment with the Governor, the Secretary of State, the ~~State~~-Legislative Library, the State Library, and the State Controller. For the purposes of this section, a copy of the letter from the appointing ~~authority~~authority, a copy of the properly executed notice of appointment as set forth in subsection (c) of this section, or a copy of the properly executed Commission of Appointment shall be sufficient to be filed if ~~such~~the copy contains the information required in subsection (b) of this section.

(b) The notice required by this Article shall ~~state the name and office of the appointing authority, the public office to which the appointment is made, the name and address of the appointee, a citation of the law pursuant to which the appointment is made, the date of the appointment, and the term of the appointment~~contain the following information:

- (1) The name and office of the appointing authority;
- (2) The public office to which the appointment is made;
- (3) The name and address of the appointee;
- (4) The county of residence of the appointee;
- (5) The citation to the law or other authority authorizing the appointment;
- (6) The specific statutory qualification for the public office to which the appointment is made, if applicable;
- (7) The name of the person the appointee replaces, if applicable;
- (8) The date the term of the appointment begins; and
- (9) The date the term of the appointment ends.

(c) The following form may be used to comply with the requirements of this section:

NOTICE OF APPOINTMENT

Notice is given that \_\_\_\_\_ is hereby appointed to the following public office:  
Name

Public Office: \_\_\_\_\_

Citation to Law or Other Authority Authorizing the Appointment:  
\_\_\_\_\_

Specific Statutory Qualification for the Public Office, if Applicable:  
\_\_\_\_\_

Address of the Appointee: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

County of Residence of the Appointee: \_\_\_\_\_

Date Term of Appointment Begins: \_\_\_\_\_

Date Term of Appointment Ends: \_\_\_\_\_

Name of Person the Appointee Replaces, if applicable:  
\_\_\_\_\_

\_\_\_\_\_  
Date of Appointment

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Office of Appointing Authority

Distribution:

- Governor
- Secretary of State
- Legislative Library
- State Library
- State Controller' "

**SECTION 3.** G.S. 143-47.8 is repealed.

**SECTION 4.** G.S. 143-47.7, as amended by Section 2 of this act, applies only to appointments made after this act becomes effective.

**SECTION 5.** This act becomes effective 30 days after it becomes law.

In the General Assembly read three times and ratified this the 18<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 11:07 a.m. on the 1<sup>st</sup> day of August, 2003.

**S.B. 563**

**Session Law 2003-375**

AN ACT TO REPEAL THE LAWS REGULATING ATHLETE AGENTS AND TO ADOPT THE UNIFORM ATHLETE AGENTS ACT.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Article 8 of Chapter 78C of the General Statutes is repealed.

**SECTION 2.** Chapter 78C of the General Statutes is amended by adding a new Article to read:

"Article 8A.

"Uniform Athlete Agents Act.

**"§ 78C-85. Title.**

This Article may be cited as the 'Uniform Athlete Agents Act'.

**"§ 78C-86. Definitions.**

The following definitions apply in this Article:

- (1) Agency contract. – An agreement in which a student-athlete authorizes a person to negotiate or solicit on behalf of the student-athlete a professional-sports-services contract or an endorsement contract.
- (2) Athlete agent. – An individual who enters into an agency contract with a student-athlete or, directly or indirectly, recruits or solicits a student-athlete to enter into an agency contract. The term includes an individual who represents to the public that the individual is an athlete agent. The term does not include a spouse, parent, sibling, or guardian of the student-athlete or an individual acting solely on behalf of a professional sports team or professional sports organization.
- (3) Athletic director. – An individual responsible for administering the overall athletic program of an educational institution or, if an educational institution has separately administered athletic programs for male students and female students, the athletic program for males or the athletic program for females, as appropriate.
- (4) Contact. – A communication, direct or indirect, between an athlete agent and a student-athlete to recruit or solicit the student-athlete to enter into an agency contract.
- (5) Endorsement contract. – An agreement under which a student-athlete is employed or receives consideration to use on behalf of the other party any value that the student-athlete may have because of publicity, reputation, following, or fame obtained because of athletic ability or performance.
- (6) Intercollegiate sport. – A sport played at the collegiate level for which eligibility requirements for participation by a student-athlete are established by a national association for the promotion or regulation of collegiate athletics.

- (7) Person. – An individual, company, corporation, partnership, association, or any other legal or commercial entity.
- (8) Professional-sports-services contract. – An agreement under which an individual is employed or agrees to render services as a player on a professional sports team, with a professional sports organization, or as a professional athlete.
- (9) Record. – Information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.
- (10) Registration. – A certificate issued by the Secretary of State evidencing that a person has satisfied the requirements of an athlete agent pursuant to this Article.
- (11) Student-athlete. – An individual who engages in, is eligible to engage in, or may be eligible in the future to engage in any intercollegiate sport. If an individual is permanently ineligible to participate in a particular intercollegiate sport, the individual is not a student-athlete for purposes of that sport.

**"§ 78C-87. Service of process; subpoenas.**

(a) By acting as an athlete agent in this State, a nonresident individual appoints the Secretary of State as the individual's agent for service of process in any civil action in this State related to the individual's acting as an athlete agent in this State.

(b) The Secretary of State may issue subpoenas for any material that is relevant to the administration of this Article.

**"§ 78C-88. Athlete agents; registration required; exceptions; void contracts.**

(a) Except as otherwise provided in this section, an individual may not act as an athlete agent in this State without holding a certificate of registration under G.S. 78C-90 or G.S. 78C-92.

(b) Before being issued a certificate of registration, an individual may act as an athlete agent in this State for all purposes except signing an agency contract if: (i) a student-athlete or another person acting on behalf of the student-athlete initiates communication with the individual; and (ii) within seven days after an initial act as an athlete agent, the individual submits an application for registration as an athlete agent in this State.

(c) A North Carolina licensed and resident attorney may act as an athlete agent in this State for all purposes without registering pursuant to this section if the attorney neither advertises directly for, nor solicits, any student-athlete by representing to any person that the attorney has special experience or qualifications with regard to representing student-athletes and represents no more than two student-athletes.

(d) An agency contract resulting from conduct in violation of this section is void, and the athlete agent shall return any consideration received under the contract.

**"§ 78C-89. Registration as athlete agent; form; requirements.**

(a) An individual seeking registration as an athlete agent shall submit an application for registration to the Secretary of State in a form prescribed by the Secretary of State. The application must be in the name of an individual and, except as otherwise provided in subsection (b) of this section, signed or otherwise authenticated by the applicant under penalty of perjury and must state or contain the following:

- (1) The name of the applicant and the address of the applicant's principal place of business.
- (2) The name of the applicant's business or employer, if applicable.

- (3) Any business or occupation engaged in by the applicant for the five years immediately preceding the date of submission of the application.
- (4) A description of the applicant's:
  - a. Formal training as an athlete agent.
  - b. Practical experience as an athlete agent.
  - c. Educational background relating to the applicant's activities as an athlete agent.
- (5) The names and addresses of three individuals not related to the applicant who are willing to serve as references.
- (6) The name, sport, and last known team for each individual for whom the applicant acted as an athlete agent during the five years immediately preceding the date of submission of the application.
- (7) The names and addresses of all persons who are:
  - a. With respect to the athlete agent's business if it is not a corporation, the partners, members, officers, managers, associates, or profit-sharers of the business.
  - b. With respect to a corporation employing the athlete agent, the officers, directors, and any shareholder of the corporation having an interest of five percent (5%) or greater.
- (8) Whether the applicant or any person named under subdivision (7) of this subsection has been convicted of a crime that, if committed in this State, would be a crime involving moral turpitude or a felony and identify the crime.
- (9) Whether there has been any administrative or judicial determination that the applicant or any person named under subdivision (7) of this subsection has made a false, misleading, deceptive, or fraudulent representation.
- (10) Any instance in which the conduct of the applicant or any person named under subdivision (7) of this subsection resulted in the imposition of a sanction, suspension, or declaration of ineligibility to participate in an interscholastic or intercollegiate athletic event on a student-athlete or educational institution.
- (11) Any sanction, suspension, or disciplinary action taken against the applicant or any person named under subdivision (7) of this subsection arising out of occupational or professional conduct.
- (12) Whether there has been any denial of an application for, suspension or revocation of, or refusal to renew the registration or licensure of the applicant or any person named under subdivision (7) of this subsection as an athlete agent in any state.

(b) An individual who has submitted an application for registration or licensure as an athlete agent in another state or who holds a certificate of registration or licensure as an athlete agent in another state may submit a copy of the application and certificate in lieu of submitting an application in the form prescribed pursuant to subsection (a) of this section. The Secretary of State shall accept the application and the certificate from the other state as an application for registration in this State if the application to the other state satisfied all of the following criteria:

- (1) Was submitted in the other state within six months immediately preceding the submission of the application in this State and the applicant certifies that the information contained in the application is current.
- (2) Contains information substantially similar to or more comprehensive than that required in an application submitted in this State.
- (3) Was signed by the applicant under penalty of perjury.

(c) An application filed under this section is a 'public record' within the meaning of Chapter 132 of the General Statutes.

**"§ 78C-90. Certificate of registration; issuance or denial; renewal.**

(a) Except as otherwise provided in subsection (b) of this section, the Secretary of State shall issue a certificate of registration to an individual who complies with G.S. 78C-89(a) or whose application has been accepted under G.S. 78C-89(b).

(b) The Secretary of State may refuse to issue a certificate of registration if the Secretary of State determines that the applicant has engaged in conduct that has a significant adverse effect on the applicant's fitness to act as an athlete agent. In making the determination, the Secretary of State may consider whether the applicant has:

- (1) Been convicted of a crime that, if committed in this State, would be a crime involving moral turpitude or a felony.
- (2) Made a materially false, misleading, deceptive, or fraudulent representation in the application or as an athlete agent.
- (3) Engaged in conduct that would disqualify the applicant from serving in a fiduciary capacity.
- (4) Engaged in conduct prohibited by G.S. 78C-98.
- (5) Had a registration or licensure as an athlete agent suspended, revoked, or denied or been refused renewal of registration or licensure as an athlete agent in any state.
- (6) Engaged in conduct the consequence of which was that a sanction, suspension, or declaration of ineligibility to participate in an interscholastic or intercollegiate athletic event was imposed on a student-athlete or educational institution.
- (7) Engaged in conduct that significantly adversely reflects on the applicant's credibility, honesty, or integrity.

(c) In making a determination under subsection (b) of this section, the Secretary of State shall consider: (i) how recently the conduct occurred; (ii) the nature of the conduct and the context in which it occurred; and (iii) any other relevant conduct of the applicant.

(d) An athlete agent may apply to renew a registration by submitting an application for renewal in a form prescribed by the Secretary of State. The application for renewal must be signed by the applicant under penalty of perjury and must contain current information on all matters required in an original registration.

(e) An individual who has submitted an application for renewal of registration or licensure in another state, in lieu of submitting an application for renewal in the form prescribed pursuant to subsection (d) of this section, may file a copy of the application for renewal and a valid certificate of registration or licensure from the other state. The Secretary of State shall accept the application for renewal from the other state as an application for renewal in this State if the application to the other state satisfied the following:

- (1) Was submitted in the other state within six months immediately preceding the filing in this State and the applicant certifies the information contained in the application for renewal is current.
- (2) Contains information substantially similar to or more comprehensive than that required in an application for renewal submitted in this State.
- (3) Was signed by the applicant under penalty of perjury.
- (f) A certificate of registration or a renewal of a registration is valid for one year.
- (g) An application filed under this section is a 'public record' within the meaning of Chapter 132 of the General Statutes.

**"§ 78C-91. Suspension; revocation; refusal to renew registration.**

- (a) The Secretary of State may suspend, revoke, or refuse to renew a registration for conduct that would have justified denial of registration under G.S. 78C-90(b).
- (b) The Secretary of State may deny, suspend, revoke, or refuse to renew a certificate of registration or licensure only after proper notice and an opportunity for a hearing in accordance with the Administrative Procedures Act pursuant to Article 3 of Chapter 150B of the General Statutes.

**"§ 78C-92. Temporary registration.**

The Secretary of State may issue a temporary certificate of registration while an application for registration or renewal of registration is pending.

**"§ 78C-93. Registration; renewal of fees.**

An application for registration or renewal of registration must be accompanied by a fee in the following amount:

- (1) Application for registration ..... \$200.00
- (2) Application for registration based upon a certificate of registration or licensure issued by another state ..... 200.00
- (3) Application for renewal of registration ..... 200.00
- (4) Application for renewal of registration based upon an application for renewal of registration or licensure submitted in another state... 200.00.

**"§ 78C-94. Required form of contract.**

- (a) An agency contract must be in a record, signed or otherwise authenticated by the parties.
- (b) An agency contract must state or contain the following:
  - (1) The amount and method of calculating the consideration to be paid by the student-athlete for services to be provided by the athlete agent under the contract and any other consideration the athlete agent has received or will receive from any other source for entering into the contract or for providing the services.
  - (2) The name of any person not listed in the application for registration or renewal of registration who will be compensated because the student-athlete signed the agency contract.
  - (3) A description of any expenses that the student-athlete agrees to reimburse.
  - (4) A description of the services to be provided to the student-athlete.
  - (5) The duration of the contract.
  - (6) The date of execution.
- (c) An agency contract must contain, in close proximity to the signature of the student-athlete, a conspicuous notice in boldface type in capital letters stating:

**WARNING TO STUDENT-ATHLETE****IF YOU SIGN THIS CONTRACT:**

**(1) YOU SHALL LOSE YOUR ELIGIBILITY TO COMPETE AS A STUDENT-ATHLETE IN YOUR SPORT;**

**(2) IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN 72 HOURS AFTER ENTERING INTO THIS CONTRACT, BOTH YOU AND YOUR ATHLETE AGENT MUST NOTIFY YOUR ATHLETIC DIRECTOR;**

**(3) YOU WAIVE YOUR ATTORNEY-CLIENT PRIVILEGE WITH RESPECT TO THIS CONTRACT AND CERTAIN INFORMATION RELATED TO IT; AND**

**(4) YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS AFTER SIGNING IT. CANCELLATION OF THIS CONTRACT SHALL NOT REINSTATE YOUR ELIGIBILITY.**

(d) An agency contract that does not conform to this section is voidable by the student-athlete. If a student-athlete voids an agency contract, the student-athlete is not required to pay any consideration under the contract or to return any consideration received from the athlete agent to induce the student-athlete to enter into the contract.

(e) The athlete agent shall give a record of the signed or otherwise authenticated agency contract to the student-athlete at the time of execution.

(f) The waiver of attorney-client privilege does not affect those privileges between client and attorney when the attorney is not an athlete agent.

**"§ 78C-95. Notice to educational institution.**

(a) Within 72 hours after entering into an agency contract or before the next scheduled athletic event in which the student-athlete may participate, whichever occurs first, the athlete agent shall give notice in a record of the existence of the contract to the athletic director of the educational institution at which the student-athlete is enrolled or the athlete agent has reasonable grounds to believe the student-athlete intends to enroll.

(b) Within 72 hours after entering into an agency contract or before the next athletic event in which the student-athlete may participate, whichever occurs first, the student-athlete shall inform the athletic director of the educational institution at which the student-athlete is enrolled that he or she has entered into an agency contract.

**"§ 78C-96. Student-athlete's right to cancel.**

(a) A student-athlete may cancel an agency contract by giving notice of the cancellation to the athlete agent in a record within 14 days after the contract is signed.

(b) A student-athlete may not waive the right to cancel an agency contract.

(c) If a student-athlete cancels an agency contract, the student-athlete is not required to pay any consideration under the contract or to return any consideration received from the athlete agent to induce the student-athlete to enter into the contract.

**"§ 78C-97. Required records; waiver of attorney-client privilege.**

(a) An athlete agent shall retain the following records for a period of five years:

(1) The name and address of each individual represented by the athlete agent.

(2) Any agency contract entered into by the athlete agent.

(3) Any direct costs incurred by the athlete agent in the recruitment or solicitation of a student-athlete to enter into an agency contract.

(b) Records required to be retained by subsection (a) of this section are open to inspection by the Secretary of State during normal business hours.



(c) Where a student-athlete enters into an agency contract regulated under this Article, the student-athlete will be deemed to waive the attorney-client privilege with respect to records required to be retained by subsection (a) of this section, subject to G.S. 78C-94(f).

**"§ 78C-98. Prohibited conduct.**

(a) An athlete agent, with the intent to induce a student-athlete to enter into an agency contract, shall not:

- (1) Give any materially false or misleading information or make a materially false promise or representation.
- (2) Furnish anything of value to a student-athlete before the student-athlete enters into the agency contract.
- (3) Furnish anything of value to any individual other than the student-athlete or another registered athlete agent.

(b) An athlete agent shall not intentionally:

- (1) Initiate contact with a student-athlete unless the athlete agent is registered under this Article.
- (2) Refuse or fail to retain or permit inspection of the records required to be retained by G.S. 78C-97.
- (3) Fail to register as required by G.S. 78C-88.
- (4) Provide materially false or misleading information in an application for registration or renewal of registration.
- (5) Predate or postdate an agency contract.
- (6) Fail to notify a student-athlete before the student-athlete signs or otherwise authenticates an agency contract for a particular sport that the signing or authentication shall make the student-athlete ineligible to participate as a student-athlete in that sport.

**"§ 78C-99. Criminal penalties.**

An athlete agent who violates any provision under G.S. 78C-98(a) is guilty of a Class I felony.

**"§ 78C-100. Civil remedies.**

(a) An educational institution has a right of action against an athlete agent or a former student-athlete for damages caused by a violation of this Article. In an action under this section, the court may award costs and reasonable attorneys' fees to the prevailing party.

(b) Damages suffered by an educational institution under subsection (a) of this section include losses and expenses incurred because, as a result of the conduct of an athlete agent or former student-athlete, the educational institution was injured by a violation of this Article or was penalized, disqualified, or suspended from participation in athletics by: (i) a national association for the promotion and regulation of athletics; (ii) an athletic conference; or (iii) reasonable self-imposed disciplinary action taken to mitigate sanctions likely to be imposed by an athletic organization.

(c) A right of action under this section does not accrue until the educational institution discovers, or by the exercise of reasonable diligence would have discovered, the violation by the athlete agent or former student-athlete.

(d) Any liability of the athlete agent or the former student-athlete under this section is several and not joint.

(e) This Article does not restrict rights, remedies, or defenses of any person under law or equity.

**"§ 78C-101. Administrative penalty.**

The Secretary of State may assess a civil penalty against an athlete agent not to exceed twenty-five thousand dollars (\$25,000) for a violation of this Article.

**"§ 78C-102. Uniformity of application and construction.**

In applying and construing this Uniform Act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

**"§ 78C-103. Electronic Signatures in Global and National Commerce Act.**

The provisions of this Article governing the legal effect, validity, or enforceability of electronic records or signatures, and of contracts formed or performed with the use of those records or signatures, conform to the requirements of section 102 of the Electronic Signatures in Global and National Commerce Act, Pub. L. 106-229, 114 Stat. 464 (2000), and supersede, modify, and limit the Electronic Signatures in Global and National Commerce Act.

**"§ 78C-104. Severability.**

If any provision of this Article or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Article which can be given effect without the invalid provision or application, and to this end the provisions of this Article are severable.

**"§ 78C-105. Rules.**

The Secretary of State may, in accordance with Chapter 150B of the General Statutes, adopt rules necessary to carry out the provisions of this Article."

**SECTION 3.** G.S. 78C-99 becomes effective December 1, 2003, and applies to acts committed on and after that date. The rest of the act is effective when it becomes law.

In the General Assembly read three times and ratified this the 18<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 11:14 a.m. on the 1<sup>st</sup> day of August, 2003.

**H.B. 79****Session Law 2003-376**

AN ACT TO REQUIRE THAT A DNA SAMPLE BE TAKEN FROM ANY PERSON CONVICTED OF ANY FELONY OR CERTAIN OTHER CRIMINAL OFFENSES OR WHO IS FOUND NOT GUILTY BY REASON OF INSANITY OF ANY FELONY OR CERTAIN OTHER CRIMINAL OFFENSES, TO CLARIFY WHEN THAT SAMPLE IS TAKEN, AND TO CLARIFY CONFIDENTIALITY.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 15A-266.1 reads as rewritten:

**"§ 15A-266.1. Policy.**

It is the policy of the State to assist federal, State, and local criminal justice and law enforcement agencies in the identification, detection, or exclusion of individuals who are subjects of the investigation or prosecution of felonies or violent crimes against the person. Identification, detection, and exclusion is facilitated by the analysis of biological evidence that is often left by the perpetrator or is recovered from the crime scene. The analysis of biological evidence can also be used to identify missing persons and victims of mass disasters."

**SECTION 2.** G.S. 15A-266.4 reads as rewritten:

**"§ 15A-266.4. Blood sample required for DNA analysis upon ~~conviction~~conviction or finding of not guilty by reason of insanity.**

(a) Unless a DNA sample has previously been obtained by lawful process and stored in the State DNA database, and that sample has not been expunged pursuant to G.S. 15A-148, on or after 1 July 1994, December 1, 2003, a person who is convicted of any of the crimes listed in subsection (b) of this section or who is found not guilty of any of these crimes by reason of insanity and committed to a mental health facility in accordance with G.S. 15A-1321 shall have a DNA sample drawn upon intake to a jail or prison, jail, prison, or the mental health facility. In addition, every person convicted on or after 1 July 1994, December 1, 2003, of any of these crimes, but who is not sentenced to a term of confinement, shall provide a DNA sample as a condition of the sentence. A person who has been convicted and incarcerated as a result of a conviction of one or more of these crimes prior to 1 July 1994, December 1, 2003, or who was found not guilty of any of these crimes by reason of insanity and committed to a mental health facility in accordance with G.S. 15A-1321 before December 1, 2003, shall have a DNA sample drawn before parole or release from the penal system, system or before release from the mental health facility.

(b) Crimes covered by this Article include:include all of the following:

(1) All felonies.

- ~~G.S. 14-17~~ — ~~Murder in the first and second degree.~~
- ~~G.S. 14-27.2~~ — ~~First degree rape.~~
- ~~G.S. 14-27.3~~ — ~~Second degree rape.~~
- ~~G.S. 14-27.4~~ — ~~First degree sexual offense.~~
- ~~G.S. 14-27.5~~ — ~~Second degree sexual offense.~~
- ~~G.S. 14-28~~ — ~~Malicious castration.~~
- ~~G.S. 14-29~~ — ~~Castration or other maiming.~~
- ~~G.S. 14-30~~ — ~~Malicious maiming.~~
- ~~G.S. 14-30.1~~ — ~~Malicious throwing of corrosive acid or alkali.~~
- ~~G.S. 14-31~~ — ~~Malicious assault in secret manner.~~
- ~~G.S. 14-32~~ — ~~Felonious assault with deadly weapon with intent to kill.~~

- (2) ~~G.S. 14-32.1~~ — ~~Assaults on handicapped persons.~~
- ~~G.S. 14-34.1~~ — ~~Discharging barreled weapon or firearm into occupied property.~~
- ~~G.S. 14-34.2~~ — ~~Assault with firearm or other deadly weapon upon law enforcement officer, fireman, or EMS personnel.~~
- ~~G.S. 14-39(a)(3)~~ — ~~Kidnapping for the purpose of doing serious bodily harm to the person.~~
- ~~G.S. 14-49~~ — ~~Malicious use of explosive or incendiary.~~
- ~~G.S. 14-58.2~~ — ~~Burning of mobile home, manufactured type house, or recreational trailer home.~~
- ~~G.S. 14-202.1~~ — ~~Taking indecent liberties with children.~~
- ~~G.S. 14-87~~ — ~~Robbery with a dangerous weapon.~~
- (3) ~~G.S. 14-277.3~~ — ~~Stalking.~~
- ~~G.S. 14-87.1~~ — ~~Common law robbery.~~
- ~~G.S. 14-58~~ — ~~First degree arson."~~

**SECTION 3.** G.S. 15A-266.6 reads as rewritten:**"§ 15A-266.6. Procedures for withdrawal of blood sample for DNA analysis.**

(a) Each DNA sample required to be drawn pursuant to G.S. 15A-266.4 from persons who are incarcerated shall be drawn at the place of incarceration. DNA samples from persons who are not sentenced to a term of confinement shall be drawn ~~at a prison or jail unit to be specified by the sentencing court.~~ immediately following sentencing. The sentencing court shall order any person not sentenced to a term of confinement to report immediately following sentencing to the location designated by the sheriff. If the sample cannot be taken immediately, the sheriff shall inform the court of the date, time, and location at which the sample shall be taken, and the court shall enter that date, time, and location into its order. A copy of the court order indicating the date, time, and location the person is to appear to have a sample taken shall be given to the sheriff. If a person not sentenced to a term of confinement fails to appear immediately following sentencing or at the date, time, and location designated in the court order, the sheriff shall inform the court of the failure to appear and the court may issue an order to show cause pursuant to G.S. 5A-15 and may issue an order for arrest pursuant to G.S. 5A-16.

(b) Only a correctional health nurse technician, physician, registered professional nurse, licensed practical nurse, laboratory technician, phlebotomist, or other health care worker with phlebotomy training shall draw any DNA sample to be submitted for analysis. No civil liability shall attach to any person authorized to draw blood by this section as a result of drawing blood from any person if the blood was drawn according to recognized medical procedures. No person shall be relieved from liability for negligence in the drawing of any DNA sample.

(c) The SBI shall provide to the sheriff the materials and supplies necessary to draw a DNA sample from a person not sentenced to a term of confinement. Any DNA sample drawn from a person not sentenced to a term of confinement shall be taken using the materials and supplies provided by the SBI."

**SECTION 4.** G.S. 15A-266.12 reads as rewritten:**"§ 15A-266.12. Confidentiality of records.**

(a) All DNA profiles and samples submitted to the SBI pursuant to this Article shall be treated as confidential except as provided in G.S. 15A-266.8.

(b) Only DNA records and samples that directly relate to the identification of individuals shall be collected and stored. These records and samples shall solely be used as a part of the criminal justice system ~~not be used for any purpose other than to facilitate for the purpose of facilitating the personal identification of an offender; the perpetrator of a criminal offense;~~ provided that in appropriate circumstances such records may be used to identify potential victims of mass disasters or missing persons."

**SECTION 5.** This act becomes effective December 1, 2003.

In the General Assembly read three times and ratified this the 18<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 11:16 a.m. on the 1<sup>st</sup> day of August, 2003.

**H.B. 1026****Session Law 2003-377**

AN ACT TO MAKE THE PROGRAM FOR THE COLLECTION OF WORTHLESS CHECKS AVAILABLE STATEWIDE.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 14-107.2 is amended by adding a new subsection to read:

"(a1) The Administrative Office of the Courts may authorize the establishment of a program for the collection of worthless checks in any prosecutorial district where economically feasible. The Administrative Office of the Courts may consider the following factors when making a feasibility determination:

- (1) The population of the district.
- (2) The number of worthless check prosecutions in the district.
- (3) The availability of personnel and equipment in the district."

**SECTION 2.** G.S. 14-107.2(b) reads as rewritten:

"(b) Upon authorization by the Administrative Office of the Courts, a district attorney may establish a program for the collection of worthless checks in cases that may be prosecuted under G.S. 14-107. The district attorney may establish a program for the collection of worthless checks in cases that would be punishable as misdemeanors, in cases that would be punishable as felonies, or both. The district attorney shall establish criteria for the types of worthless check cases that will be eligible under the program."

**SECTION 3.** G.S. 14-107.2(e) is repealed.

**SECTION 4.** G.S. 7A-346.2(b) reads as rewritten:

"(b) The Administrative Office of the Courts shall report by April 1 of each odd-numbered year to the Chairs of the Senate and House Appropriations Committees and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety on the implementation economic viability of the worthless check collection programs established by district attorneys pursuant to ~~G.S. 14-107.2, including their effectiveness in assisting the recipients of worthless checks in obtaining restitution and the amount of time saved from not prosecuting worthless check cases.~~ G.S. 14-107.2, including an assessment of whether any adjustments need to be made to ensure that the programs, on a statewide basis, are self-supporting."

**SECTION 4.** As soon as practicable, the Administrative Office of the Courts shall determine the economic feasibility of establishing a worthless check collection program in Prosecutorial Districts 1, 3A, 18, 25, 28, and 29. The Administrative Office of the Courts shall authorize the establishment of a worthless check collection program in any or all of the prosecutorial districts identified in this section that are determined to be economically feasible before it authorizes a worthless check collection program in any other prosecutorial district.

**SECTION 5.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 18<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 11:17 a.m. on the 1<sup>st</sup> day of August, 2003.

**S.B. 693**

**Session Law 2003-378**

AN ACT TO AMEND THE LAW REGARDING ENHANCED SENTENCES AS RECOMMENDED BY THE SENTENCING COMMISSION AND TO MAKE CONFORMING CHANGES.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 14-2.2 is repealed.

**SECTION 2.** G.S. 15A-1340.16A reads as rewritten:

**"§ 15A-1340.16A. Enhanced sentence if defendant is convicted of a Class A, B1, B2, C, D, or E felony and the defendant used, displayed, or threatened to use or display a firearm during the commission of the felony.**

~~(a) If a person is convicted of a Class A, B1, B2, C, D, or E felony and the court finds that the person used, displayed, or threatened to use or display a firearm at the time of the felony, the court shall increase the minimum term of imprisonment to which the person is sentenced by 60 months. The court shall not suspend the 60-month minimum term of imprisonment imposed as an enhanced sentence under this section and shall not place any person sentenced under this section on probation for the enhanced sentence.~~

~~(b) Subsection (a) of this section does not apply in any of the following circumstances:~~

~~(1) The person is not sentenced to an active term of imprisonment.~~

~~(2) The evidence of the use, display, or threatened use or display of a firearm is needed to prove an element of the underlying Class A, B1, B2, C, D, or E felony.~~

~~(3) The person did not actually possess a firearm about his or her person.~~

(c) If a person is convicted of a Class A, B1, B2, C, D, or E felony and it is found as provided in this section that: (i) the person committed the felony by using, displaying, or threatening the use or display of a firearm and (ii) the person actually possessed the firearm about his or her person, then the person shall have the minimum term of imprisonment to which the person is sentenced for that felony increased by 60 months. The maximum term of imprisonment shall be the maximum term that corresponds to the minimum term after it is increased by 60 months, as specified in G.S. 15A-1340.17(e) and (e1).

(d) An indictment or information for the Class A, B1, B2, C, D, or E felony shall allege in that indictment or information the facts set out in subsection (c) of this section. The pleading is sufficient if it alleges that the defendant committed the felony by using, displaying, or threatening the use or display of a firearm and the defendant actually possessed the firearm about the defendant's person. One pleading is sufficient for all Class A, B1, B2, C, D, or E felonies that are tried at a single trial.

(e) The State shall prove the issues set out in subsection (c) of this section beyond a reasonable doubt during the same trial in which the defendant is tried for the felony unless the defendant pleads guilty or no contest to the issues. If the defendant pleads guilty or no contest to the felony but pleads not guilty to the issues set out in subsection (c) of this section, then a jury shall be impaneled to determine the issues.

(f) Subsection (c) of this section does not apply if the evidence of the use, display, or threatened use or display of the firearm is needed to prove an element of the felony or if the person is not sentenced to an active term of imprisonment."

**SECTION 3.** G.S. 15A-1340.16B reads as rewritten:

**"§ 15A-1340.16B. Life imprisonment without parole for a second or subsequent conviction of a Class B1 felony-felony if the victim was 13 years of age or younger and there are no mitigating factors.**

(a) Notwithstanding the sentencing dispositions in G.S. 15A-1340.17, if a person is convicted of a Class B1 felony shall be sentenced to life imprisonment without parole if: and it is found as provided in this section that: (i)

- (1) ~~The offense was committed~~ the person committed the felony against a victim who was 13 years of age or younger at the time of the offense; offense and
- (2) ~~The~~(ii) the person has one or more prior convictions of a Class B1 felony; and
- (3) ~~The court finds that there are no mitigating factors in accordance with G.S. 15A-1340.16(e).~~ felony, then the person shall be sentenced to life imprisonment without parole.

(b) ~~If the sentencing court finds that there are mitigating circumstances, then the court shall sentence the person in accordance with G.S. 15A-1340.17.~~

(e) ~~A prior conviction of a Class B1 felony shall be proved in accordance with G.S. 15A-1340.14.~~

(d) An indictment or information for the Class B1 felony shall allege in that indictment or information or in a separate indictment or information the facts set out in subsection (a) of this section. The pleading is sufficient if it alleges that the defendant committed the felony against a victim who was 13 years of age or younger at the time of the felony and that the defendant had one or more prior convictions of a Class B1 felony. One pleading is sufficient for all Class B1 felonies that are tried at a single trial.

(e) The State shall prove the issues set out in subsection (a) of this section beyond a reasonable doubt during the same trial in which the defendant is tried for the felony unless the defendant pleads guilty or no contest to the issues. The issues shall be presented in the same manner as provided in G.S. 15A-928(c). If the defendant pleads guilty or no contest to the felony but pleads not guilty to the issues set out in subsection (a) of this section, then a jury shall be impaneled to determine the issues.

(f) Subsection (a) of this section does not apply if there are mitigating factors present under G.S. 15A-1340.16(e)."

**SECTION 4.** G.S. 15A-1340.16C reads as rewritten:

**"§ 15A-1340.16C. Enhanced sentence if defendant is convicted of a felony and the defendant was wearing or had in his or her immediate possession a bullet-proof vest during the commission of the felony.**

(a) If a person is convicted of a felony and ~~the court finds that~~ it is found as provided in this section that the person was wearing or had in his or her immediate possession a bullet-proof vest at the time of the felony, then the person is guilty of a felony that is one class higher than the underlying felony for which the person was convicted.

(b) ~~This section does not apply if the evidence that the person possessed a bullet-proof vest is needed to prove an element of the underlying felony for which the person was convicted. This section does not apply to law enforcement officers.~~

(b1) This section does not apply to law enforcement officers, unless the State proves beyond a reasonable doubt, pursuant to subsection (d) of this section, both of the following:

- (1) That the law enforcement officer was not performing or attempting to perform a law enforcement function.
- (2) That the law enforcement officer knowingly wore or had in his or her immediate possession a bulletproof vest at the time of the commission of the felony for the purpose of aiding the law enforcement officer in the commission of the felony.

(c) An indictment or information for the felony shall allege in that indictment or information or in a separate indictment or information the facts set out in subsection (a)

of this section. The pleading is sufficient if it alleges that the defendant committed the felony while wearing or having in the defendant's immediate possession a bulletproof vest. One pleading is sufficient for all felonies that are tried at a single trial.

(d) The State shall prove the issue set out in subsection (a) of this section beyond a reasonable doubt during the same trial in which the defendant is tried for the felony unless the defendant pleads guilty or no contest to that issue. If the defendant pleads guilty or no contest to the felony but pleads not guilty to the issue set out in subsection (a) of this section, then a jury shall be impaneled to determine that issue.

(e) Subsection (a) of this section does not apply if the evidence that the person wore or had in the person's immediate possession a bulletproof vest is needed to prove an element of the felony."

**SECTION 5.** G.S. 14-269.1 reads as rewritten:

"§ 14-269.1. **Confiscation and disposition of deadly weapons.**

Upon conviction of any person for violation of ~~G.S. 14-2-2~~, G.S. 14-269, G.S. 14-269.7, or any other offense involving the use of a deadly weapon of a type referred to in G.S. 14-269, the deadly weapon with reference to which the defendant shall have been convicted shall be ordered confiscated and disposed of by the presiding judge at the trial in one of the following ways in the discretion of the presiding judge.

- (1) By ordering the weapon returned to its rightful owner, but only when such owner is a person other than the defendant and has filed a petition for the recovery of such weapon with the presiding judge at the time of the defendant's conviction, and upon a finding by the presiding judge that petitioner is entitled to possession of same and that he was unlawfully deprived of the same without his consent.
- (2), (3) Repealed by Session Laws 1994, Ex. Sess., c. 16, s. 2.
- (4) By ordering such weapon turned over to the sheriff of the county in which the trial is held or his duly authorized agent to be destroyed. The sheriff shall maintain a record of the destruction thereof.
- (4a) By ordering the weapon, if the weapon has a legible unique identification number, turned over to a law enforcement agency in the county of trial for the official use of such agency, but only upon the written request by the head or chief of such agency. The receiving law enforcement agency shall maintain a record and inventory of all such weapons received.
- (5) By ordering such weapon turned over to the North Carolina State Bureau of Investigation's Crime Laboratory Weapons Reference Library for official use by that agency. The State Bureau of Investigation shall maintain a record and inventory of all such weapons received.
- (6) By ordering such weapons turned over to the North Carolina Justice Academy for official use by that agency. The North Carolina Justice Academy shall maintain a record and inventory of all such weapons received."

**SECTION 6.** G.S. 15A-1340.16(d) reads as rewritten:

"(d) **Aggravating Factors.** – The following are aggravating factors:

- (1) The defendant induced others to participate in the commission of the offense or occupied a position of leadership or dominance of other participants.



- (2) The defendant joined with more than one other person in committing the offense and was not charged with committing a conspiracy.
- (2a) The offense was committed for the benefit of, or at the direction of, any criminal street gang, with the specific intent to promote, further, or assist in any criminal conduct by gang members, and the defendant was not charged with committing a conspiracy. A "criminal street gang" means any ongoing organization, association, or group of three or more persons, whether formal or informal, having as one of its primary activities the commission of felony or violent misdemeanor offenses, or delinquent acts that would be felonies or violent misdemeanors if committed by an adult, and having a common name or common identifying sign, colors, or symbols.
- (3) The offense was committed for the purpose of avoiding or preventing a lawful arrest or effecting an escape from custody.
- (4) The defendant was hired or paid to commit the offense.
- (5) The offense was committed to disrupt or hinder the lawful exercise of any governmental function or the enforcement of laws.
- (6) The offense was committed against or proximately caused serious injury to a present or former law enforcement officer, employee of the Department of Correction, jailer, fireman, emergency medical technician, ambulance attendant, justice or judge, clerk or assistant or deputy clerk of court, magistrate, prosecutor, juror, or witness against the defendant, while engaged in the performance of that person's official duties or because of the exercise of that person's official duties.
- (7) The offense was especially heinous, atrocious, or cruel.
- (8) The defendant knowingly created a great risk of death to more than one person by means of a weapon or device which would normally be hazardous to the lives of more than one person.
- (9) The defendant held public office at the time of the offense and the offense related to the conduct of the office.
- (10) The defendant was armed with or used a deadly weapon at the time of the crime.
- (11) The victim was very young, or very old, or mentally or physically infirm, or handicapped.
- (12) The defendant committed the offense while on pretrial release on another charge.
- (13) The defendant involved a person under the age of 16 in the commission of the crime.
- (14) The offense involved an attempted or actual taking of property of great monetary value or damage causing great monetary loss, or the offense involved an unusually large quantity of contraband.
- (15) The defendant took advantage of a position of trust or confidence to commit the offense.
- (16) The offense involved the sale or delivery of a controlled substance to a minor.
- (17) The offense for which the defendant stands convicted was committed against a victim because of the victim's race, color, religion, nationality, or country of origin.
- (18) The defendant does not support the defendant's family.

- (18a) The defendant has previously been adjudicated delinquent for an offense that would be a Class A, B1, B2, C, D, or E felony if committed by an adult.
- (19) The serious injury inflicted upon the victim is permanent and debilitating.
- (20) Any other aggravating factor reasonably related to the purposes of sentencing.

Evidence necessary to prove an element of the offense shall not be used to prove any factor in aggravation, and the same item of evidence shall not be used to prove more than one factor in aggravation. Evidence necessary to establish that an enhanced sentence is required under ~~G.S. 14-2-2~~ G.S. 15A-1340.16A may not be used to prove any factor in aggravation.

The judge shall not consider as an aggravating factor the fact that the defendant exercised the right to a jury trial."

**SECTION 7.** This act is effective when it becomes law and applies to offenses committed on or after that date. Prosecutions for offenses occurring before the effective date of this act are not abated or affected by this act, and the statutes that would be applicable before this act remain applicable to those prosecutions.

In the General Assembly read three times and ratified this the 17<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 11:19 a.m. on the 1<sup>st</sup> day of August, 2003.

**H.B. 1030**

**Session Law 2003-379**

**AN ACT TO REDUCE THE CONCEALED HANDGUN PERMIT APPLICATION AND RENEWAL FEES FOR QUALIFIED RETIRED SWORN LAW ENFORCEMENT OFFICERS.**

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 14-415.19 reads as rewritten:

**"§ 14-415.19. Fees.**

(a) The permit fees assessed under this Article are payable to the sheriff. The sheriff shall transmit the proceeds of these fees to the county finance officer to be remitted or credited by the county finance officer in accordance with the provisions of this ~~subsection-section~~. Except as otherwise provided by this section, the permit fees are as follows:

Application fee.....	\$80.00
Renewal fee.....	\$75.00
Duplicate permit fee.....	\$15.00

The county finance officer shall remit forty-five dollars (\$45.00) of each new application fee and forty dollars (\$40.00) of each renewal fee assessed under this subsection to the North Carolina Department of Justice for the costs of State and federal criminal record checks performed in connection with processing applications and for the implementation of the provisions of this Article. The remaining thirty-five dollars (\$35.00) of each application or renewal fee shall be used by the sheriff to pay the costs of administering this Article and for other law enforcement purposes. The county shall expend the restricted funds for these purposes only.

(a1) The permit fees for a retired sworn law enforcement officer who provides the information required by subdivisions (1) and (2) of this subsection to the sheriff, in addition to any other information required under this Article, are as follows:

<u>Application fee.....</u>	<u>\$45.00</u>
<u>Renewal fee.....</u>	<u>\$40.00</u>

- (1) A copy of the officer's letter of retirement from either the North Carolina Teachers' and State Employees' Retirement System or the North Carolina Local Governmental Employees' Retirement System.
- (2) Written documentation from the head of the agency where the person was previously employed indicating that the person was neither involuntarily terminated nor under administrative or criminal investigation within six months of retirement.

The county finance officer shall remit the proceeds of the fees assessed under this subsection to the North Carolina Department of Justice to cover the cost of performing the State and federal criminal record checks performed in connection with processing applications and for the implementation of the provisions of this Article.

(b) An additional fee, not to exceed ten dollars (\$10.00), shall be collected by the sheriff from an applicant for a permit to pay for the costs of processing the applicant's fingerprints, if fingerprints were required to be taken. This fee shall be retained by the sheriff."

**SECTION 2.** This act becomes effective September 1, 2003, and applies to applications for concealed handgun permits and permit renewals submitted on or after that date.

In the General Assembly read three times and ratified this the 18<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 11:19 a.m. on the 1<sup>st</sup> day of August, 2003.

**H.B. 786**

**Session Law 2003-380**

**AN ACT TO AMEND LIABILITY RULES THAT APPLY TO CIVIL PARKING, RED LIGHT CAMERA, AND PHOTOGRAPHIC SPEED-MEASURING SYSTEM ENFORCEMENT ACTIONS.**

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 160A-301 is amended by adding a new subsection to read:

"(e) The registered owner of a vehicle that has been leased or rented to another person or company shall not be liable for a violation of an ordinance adopted pursuant to this section if, after receiving notification of the civil violation within 90 days of the date of occurrence, the owner, within 30 days thereafter, files with the officials or agents of the municipality an affidavit including the name and address of the person or company that leased or rented the vehicle. If notification is given to the owner of the vehicle after 90 days have elapsed from the date of the violation, the owner is not required to provide the name and address of the lessee or renter, and the owner shall not be held responsible for the violation."

**SECTION 2.** G.S. 160A-300.1(c) reads as rewritten:

"(c) Municipalities may adopt ordinances for the civil enforcement of G.S. 20-158 by means of a traffic control photographic system, as described in subsection (a) of this

section. Notwithstanding the provisions of G.S. 20-176, in the event that a municipality adopts an ordinance pursuant to this section, a violation of G.S. 20-158 at a location at which a traffic control photographic system is in operation shall not be an infraction. An ordinance authorized by this subsection shall provide that:

- (1) The owner of a vehicle shall be responsible for a violation unless the owner can furnish evidence that the vehicle was, at the time of the violation, in the care, custody, or control of another person. The owner of the vehicle shall not be responsible for the violation if the owner of the vehicle, within ~~21~~30 days after notification of the violation, furnishes the officials or agents of the municipality which issued the ~~citation~~citation either of the following:
  - a. An affidavit stating the name and address of the person or company who leased, rented, or otherwise had the care, custody, and control of the vehicle; or
  - b. An affidavit stating that the vehicle involved was, at the time, stolen. The affidavit must be supported with evidence that supports the affidavit, including insurance or police report information. or in the care, custody, or control of some person who did not have permission of the owner to use the vehicle.
- (2) Subdivision (1) of this subsection shall not apply, and the registered owner of the vehicle shall not be responsible for the violation, if notice of the violation is given to the registered owner of the vehicle more than 90 days after the date of the violation.
- ~~(2)~~(3) A violation detected by a traffic control photographic system shall be deemed a noncriminal violation for which a civil penalty of fifty dollars (\$50.00) shall be assessed, and for which no points authorized by G.S. 20-16(c) shall be assigned to the owner or driver of the vehicle nor insurance points as authorized by G.S. 58-36-65.
- ~~(3)~~(4) The owner of the vehicle shall be issued a citation which shall clearly state the manner in which the violation may be challenged, and the owner shall comply with the directions on the citation. The citation shall be processed by officials or agents of the municipality and shall be forwarded by personal service or first-class mail to the address given on the motor vehicle registration. If the owner fails to pay the civil penalty or to respond to the citation within the time period specified on the citation, the owner shall have waived the right to contest responsibility for the violation, and shall be subject to a civil penalty not to exceed one hundred dollars (\$100.00). The municipality may establish procedures for the collection of these penalties and may enforce the penalties by civil action in the nature of debt.
- ~~(4)~~(5) The municipality shall institute a nonjudicial administrative hearing to review objections to citations or penalties issued or assessed under this section."

**SECTION 3.** G.S. 160A-300.2(d), as enacted by Section 3 of S.L. 2001-286, reads as rewritten:

"(d) Municipalities may adopt ordinances for the civil enforcement of G.S. 20-158 by means of a traffic control photographic system, as described in subsection (a) of this section. If a municipality adopts an ordinance pursuant to this section then, notwithstanding G.S. 20-176, a violation of G.S. 20-158 detected only by a traffic

control photographic system shall not be an infraction. If a violation of G.S. 20-158 is detected by both a law enforcement officer and a traffic control photographic system, the officer may charge the offender with an infraction. If the officer charges the offender with an infraction, a civil penalty issued by the municipality for the same offense is void and unenforceable. An ordinance authorized by this subsection shall provide that:

- (1) The owner of a vehicle shall be responsible for a violation unless the owner can furnish evidence that the vehicle was, at the time of the violation, in the care, custody, or control of another person. The owner of the vehicle shall not be responsible for the violation if the owner of the vehicle, within ~~21~~30 days after receiving notification of the violation, furnishes the office of the mayor of the municipality that issued the ~~citation~~citation any of the following:
  - a. An affidavit stating ~~The~~the name and address of the person or company who ~~leased, rented, or otherwise~~ had the care, custody, and control of the ~~vehicle~~vehicle.
  - b. An affidavit stating that the vehicle involved was, at the time, stolen~~stolen~~. The affidavit must be supported with evidence that supports the affidavit, including insurance or police report information. ~~or in the care, custody, or control of some person who did not have permission of the owner to use the vehicle; or~~
  - c. ~~A statement~~An affidavit stating that the person who received the citation is not the owner or driver of the vehicle, or that the person who received the citation was not driving a vehicle at the time and location designated in the citation.
- (2) Subdivision (1) of this subsection shall not apply, and the registered owner of the vehicle shall not be responsible for the violation, if notice of the violation is given to the registered owner of the vehicle more than 90 days after the date of the violation.
- ~~(2)~~(3) A violation detected by a traffic control photographic system shall be deemed a noncriminal violation for which a civil penalty of fifty dollars (\$50.00) shall be assessed and for which no points authorized by G.S. 20-16(c) shall be assigned to the owner or driver of the vehicle nor insurance points as authorized by G.S. 58-36-65.
- ~~(3)~~(4) The owner of the vehicle shall be issued a citation that shall be attached to photographic evidence of the violation that identifies the vehicle involved. The citation shall clearly state the manner in which the violation may be challenged. The owner of the vehicle shall comply with the directions on the citation. The citation shall be processed by officials or agents of the municipality and shall be forwarded by personal service or first-class mail to the address given on the motor vehicle registration. If the owner fails to pay the civil penalty or to respond to the citation within the time period specified on the citation, the owner shall have waived the right to contest responsibility for the violation and shall be subject to a civil penalty not to exceed one hundred dollars (\$100.00). The municipality may establish procedures for the collection of these penalties and may enforce the penalties by civil action in the nature of debt.

- ~~(4)~~(5) The municipality shall establish a nonjudicial administrative hearing process to review objections to citations or penalties issued or assessed under this section. The municipality may establish an appeals panel composed of municipal employees to review objections. If the municipality does not establish an appeals panel composed of municipal employees, the mayor of the municipality shall review and make a final decision on all objections."

**SECTION 4.** G.S. 160A-300.3(d), as enacted by Section 4 of S.L. 2001-286, reads as rewritten:

"(d) Municipalities may adopt ordinances for the civil enforcement of G.S. 20-158 by means of a traffic control photographic system, as described in subsection (a) of this section. Notwithstanding the provisions of G.S. 20-176, in the event that a municipality adopts an ordinance pursuant to this section, a violation of G.S. 20-158 at a location at which a traffic control photographic system is in operation shall not be an infraction. An ordinance authorized by this subsection shall provide that:

- (1) The owner of a vehicle shall be responsible for a violation unless the owner can furnish evidence that the vehicle was, at the time of the violation, in the care, custody, or control of another person. The owner of the vehicle shall not be responsible for the violation if the owner of the vehicle, within ~~21~~30 days after notification of the violation, furnishes the officials or agents of the municipality which issued the ~~citation~~citation either of the following:
  - a. An affidavit stating The the name and address of the person or company who leased, rented, or otherwise had the care, custody, and control of the vehicle; or vehicle.
  - b. An affidavit stating that the vehicle involved was, at the time, ~~stolen~~ stolen. The affidavit must be supported with evidence that supports the affidavit, including insurance or police report information. or in the care, custody, or control of some person who did not have permission of the owner to use the vehicle.
- (2) Subdivision (1) of this subsection shall not apply, and the registered owner of the vehicle shall not be responsible for the violation, if notice of the violation is given to the registered owner of the vehicle more than 90 days after the date of the violation.
- ~~(2)~~(3) A violation detected by a traffic control photographic system shall be deemed a noncriminal violation for which a civil penalty of fifty dollars (\$50.00) shall be assessed, and for which no points authorized by G.S. 20-16(c) shall be assigned to the owner or driver of the vehicle nor insurance points as authorized by G.S. 58-36-65.
- ~~(3)~~(4) The owner of the vehicle shall be issued a citation which shall clearly state the manner in which the violation may be challenged, and the owner shall comply with the directions on the citation. The citation shall be processed by officials or agents of the municipality and shall be forwarded by personal service or first-class mail to the address given on the motor vehicle registration. If the owner fails to pay the civil penalty or to respond to the citation within the time period specified on the citation, the owner shall have waived the right to contest responsibility for the violation, and shall be subject to a civil penalty not to exceed one hundred dollars (\$100.00). The municipality

may establish procedures for the collection of these penalties and may enforce the penalties by civil action in the nature of debt.

- (4)(5) The municipality shall institute a nonjudicial administrative hearing to review objections to citations or penalties issued or assessed under this section."

**SECTION 5.** G.S. 160A-300.4(e), as enacted by S.L. 2003-280, reads as rewritten:

"(e) A municipality may adopt ordinances for the civil enforcement of G.S. 20-141 and G.S. 20-141.1 by means of a photographic speed-measuring system. Notwithstanding the provisions of G.S. 20-141, 20-141.1, and 20-176, in the event that a municipality adopts an ordinance pursuant to this section, a violation of G.S. 20-141 or G.S. 20-141.1 detected by a photographic speed-measuring system shall not be an infraction or misdemeanor. An ordinance authorized by this subsection shall provide that:

- (1) The owner of a vehicle shall be responsible for a violation unless the owner can furnish evidence that the vehicle was, at the time of the violation, in the care, custody, or control of another person. The owner of the vehicle shall not be responsible for the violation if the owner of the vehicle furnishes, within ~~21~~30 days of notification of the violation, to the officials or agents of the municipality that issued the citation either of the following:
  - a. ~~The~~An affidavit stating the name and address of the person or company who leased, rented, or otherwise had the care, custody, or control of the vehicle.
  - b. An affidavit stating that the vehicle involved was, at the time of the violation, stolen-stolen. The affidavit must be supported with evidence that supports the affidavit, including insurance or police report information. or in the care, custody, or control of some person who did not have permission of the owner to use the vehicle.
- (2) Subdivision (1) of this subsection shall not apply, and the registered owner of the vehicle shall not be responsible for the violation, if notice of the violation is given to the registered owner of the vehicle more than 90 days after the date of the violation.
- (2)(3) A violation detected by a photographic speed-measuring system shall be deemed a noncriminal violation for which a civil penalty of fifty dollars (\$50.00) shall be assessed and for which no points authorized by G.S. 20-16(c) or G.S. 58-36-65 shall be assigned to the owner or driver of the vehicle.
- (3)(4) The owner of the vehicle shall be issued a citation, written in both English and Spanish, clearly stating the manner in which the violation may be challenged and containing both a street address within the municipality and a local or toll-free telephone number at which the owner may challenge the citation. The citation shall be processed by officials or agents of the municipality and shall be forwarded by personal service or certified mail to the address given on the motor vehicle registration. If the owner fails to pay the civil penalty or to respond to the citation within the time period specified on the citation, the owner shall have waived the right to contest responsibility for the

violation and shall be subject to an additional penalty not to exceed fifty dollars (\$50.00). The municipality may establish procedures for the collection of these penalties and may recover the penalties by civil action in the nature of debt.

- ~~(4)~~(5) The municipality shall provide a nonjudicial administrative hearing process to review objections to citations or penalties issued or assessed under this section. The administrative hearing process shall include methods for challenging the violation or penalty either in person, at the street address provided on the citation, or through the telephone, at the telephone number provided on the citation. The municipality shall ensure that a Spanish-speaking person is available both at the street address and through the telephone number to assist Spanish-speaking persons. An administrative hearing decision shall be subject to review by the superior court by proceedings in the nature of certiorari. Any petition for review by the superior court shall be filed with the clerk of superior court within 30 days after the administrative hearing decision.
- ~~(5)~~(6) The clear proceeds from the citations issued pursuant to the ordinance authorized by this section shall be paid to the county school fund. The clear proceeds from the citations shall mean the funds remaining after paying for the lease, lease-purchase, or purchase of the photographic speed-measuring system; paying for operation of the system, either by the municipality or by a contractor; paying for a program to provide public awareness of the system; and paying any administrative costs incurred by the municipality related to the use of the system."

**SECTION 6.** This act is effective when it becomes law. Section 5 of this act expires June 30, 2006.

In the General Assembly read three times and ratified this the 19<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 11:20 a.m. on the 1<sup>st</sup> day of August, 2003.

**S.B. 753**

**Session Law 2003-381**

AN ACT TO AMEND THE QUALIFICATIONS FOR PERSONS NOMINATED AS MAGISTRATES AND TO ESTABLISH A PILOT PROGRAM IN TWELFTH JUDICIAL DISTRICT TO ADDRESS CONFLICTING CHILD CUSTODY ORDERS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 7A-171.2(b) reads as rewritten:

"(b) To be eligible for nomination as a magistrate, an individual shall have at least eight years' experience as the clerk of superior court in a county of this State or shall have a four-year degree from an accredited senior institution of higher education or shall have a two-year associate degree and four years of work experience in a related field, including teaching, social services, law enforcement, arbitration or mediation, the court system, or counseling. The Administrative Officer of the Courts may determine whether the work experience is sufficiently related to the duties of the office of magistrate for the purposes of this subsection. In determining whether an individual's



work experience is in a related field, the Administrative Officer of the Courts shall consider the requisite knowledge, skills, and abilities for the office of magistrate.

The eligibility requirements prescribed by this subsection do not apply to individuals holding the office of magistrate on June 30, 1994, and do not apply to individuals who have been nominated by June 30, 1994, but who have not been appointed or taken the oath of office by that date."

**SECTION 2.(a)** The Administrative Office of the Courts, in consultation with the Department of Health and Human Services, shall establish a pilot program in the Twelfth Judicial District that addresses the issue of conflicting child custody orders. To the extent that this act or the program established pursuant to it conflicts with any State law, the program supersedes that law. However, the Department of Health and Human Services shall ensure that federal funding is not jeopardized.

**SECTION 2.(b)** Under this program, when a court obtains jurisdiction over a juvenile as the result of a petition alleging that the juvenile is abused, neglected, or dependent:

- (1) The court in the juvenile proceeding may stay any other civil action in this State in which the custody of the juvenile is an issue.
- (2) If an order entered in the juvenile proceeding and an order entered in another civil custody action conflict, the order in the juvenile proceeding controls as long as the court continues to retain jurisdiction in the juvenile proceeding.
- (3) The court in the juvenile proceeding may order that any civil action or claim for custody filed in the pilot judicial district be consolidated with the juvenile proceeding.
- (4) If a civil action or claim for custody has been filed in a district other than the pilot judicial district, then the court in the juvenile proceeding may, after consulting with the court in the other district, order that the civil action or claim for custody be transferred to the pilot judicial district or may order a change of venue in the juvenile proceeding and transfer the juvenile proceeding to the other district.
- (5) The court may establish a mechanism for determining the legal status of a juvenile after jurisdiction of the juvenile court terminates, including a determination as to who has custody of the juvenile and under what circumstances custody may subsequently be changed.

**SECTION 2.(c)** The Administrative Office of the Courts shall evaluate the pilot program and report its findings and recommendations to the 2005 General Assembly prior to its convening.

**SECTION 3.** This act is effective when it becomes law. Section 2 of this act expires June 30, 2005.

In the General Assembly read three times and ratified this the 18<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 11:21 a.m. on the 1<sup>st</sup> day of August, 2003.

AN ACT TO PREVENT THE NEGATIVE SECONDARY EFFECTS CAUSED BY SEXUALLY EXPLICIT CONDUCT ON PREMISES LICENSED BY THE ALCOHOLIC BEVERAGE CONTROL COMMISSION.

Whereas, the United States District Court for the Middle District of North Carolina has issued a preliminary injunction, in the case of Carandola v. Bason, enjoining the State of North Carolina from enforcing regulations which prohibit certain sexually explicit conduct on premises licensed by the Alcoholic Beverage Control Commission; and

Whereas, the federal District Court concluded that the regulations are likely to be held to be unconstitutional; and

Whereas, upon review of the federal District Court decision in Carandola, the United States Circuit Court of Appeals for the Fourth Circuit has found that the federal District Court did not abuse its discretion, and has allowed the injunction to remain in place; and

Whereas, the Circuit Court of Appeals for the Fourth Circuit has stated that entertainment such as nude or topless dancing at bars and clubs has "a long history of spawning deleterious effects," including "prostitution and the criminal abuse and exploitation of young women"; and

Whereas, the General Assembly has reviewed studies of the secondary effects of sexually oriented businesses that have been conducted in locations across the United States, including: Phoenix, Arizona; Los Angeles, California; Minneapolis, Minnesota; Austin, Texas; New York City, New York; Oklahoma City, Oklahoma; and other cities; and

Whereas, studies show that negative secondary effects of sexually oriented businesses include increases in crime, such as prostitution, drug offenses, assaults, and sex crimes; and

Whereas, it is not the intent of the General Assembly to suppress the conduct of entertainment at premises licensed by the Alcoholic Beverage Control Commission, but it is the desire of the General Assembly to address the harmful secondary effects of such entertainment, including higher crime rates, public sexual conduct, sexual assault, prostitution, and other secondary negative effects; and

Whereas, it is the intent of the General Assembly to prohibit entertainment at premises licensed by the Alcoholic Beverage Control Commission that provides an atmosphere conducive to violence, sexual harassment, public intoxication, prostitution, and the spread of sexually transmitted diseases; Now, therefore,

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 18B-1005(a) reads as rewritten:

"(a) Certain Conduct. – It shall be unlawful for a permittee or his agent or employee to knowingly allow any of the following kinds of conduct to occur on his licensed premises:

- (1) Any violation of this Chapter;
- (2) Any fighting or other disorderly conduct that can be prevented without undue danger to the permittee, his employees or patrons; or
- (3) Any violation of the controlled substances, gambling, or prostitution statutes, or any other unlawful acts.

- (4) ~~Any conduct or entertainment by any person whose private parts are exposed or who is wearing transparent clothing that reveals the private parts;~~
- (5) ~~Any entertainment that includes or simulates sexual intercourse or any other sexual act; or~~
- (6) ~~Any other lewd or obscene entertainment or conduct, as defined by the rules of the Commission."~~

**SECTION 2.** Chapter 18B of the General Statutes is amended by adding a new section to read:

**"§ 18B-1005.1. Sexually explicit conduct on licensed premises.**

(a) It shall be unlawful for a permittee or his agent or employee to knowingly allow or engage in any of the following kinds of conduct on his licensed premises:

- (1) Any conduct or entertainment by any person whose genitals are exposed or who is wearing transparent clothing that reveals the genitals;
- (2) Any conduct or entertainment that includes or simulates sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any act that includes or simulates the penetration, however slight, by any object into the genital or anal opening of a person's body; or
- (3) Any conduct or entertainment that includes the fondling of the breasts, buttocks, anus, vulva, or genitals.

(b) Supervision. – It shall be unlawful for a permittee to fail to superintend in person or through a manager the business for which a permit is issued.

(c) Exception. – This section does not apply to persons operating theaters, concert halls, art centers, museums, or similar establishments that are primarily devoted to the arts or theatrical performances, when the performances that are presented are expressing matters of serious literary, artistic, scientific, or political value."

**SECTION 3.** If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or application, and to this end the provisions of this act are severable.

**SECTION 4.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 20<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 11:32 a.m. on the 1<sup>st</sup> day of August, 2003.

**H.B. 48**

**Session Law 2003-383**

AN ACT TO IMPLEMENT THE NORTH CAROLINA MOVING AHEAD TRANSPORTATION INITIATIVE BY ALLOWING CASH BALANCES IN THE HIGHWAY TRUST FUND TO BE USED TO MEET CRUCIAL TRANSPORTATION NEEDS, TO REQUIRE FUNDS DESIGNATED BY THIS ACT FOR PRESERVATION, MODERNIZATION, AND MAINTENANCE BE EXPENDED IN ACCORDANCE WITH THE EQUITY DISTRIBUTION FORMULA, TO REQUIRE THE DEPARTMENT OF TRANSPORTATION TO CERTIFY THAT USE OF FUNDS IN ACCORDANCE WITH THIS ACT WILL NOT DELAY CONSTRUCTION OF ANY HIGHWAY TRUST FUND PROJECT,

TO REAFFIRM THE INTENT OF THE GENERAL ASSEMBLY THAT PROCEEDS FROM THE ISSUANCE OF BONDS UNDER AUTHORITY OF THE STATE HIGHWAY BOND ACT OF 1996 SHALL BE USED FOR THE PURPOSES STATED IN THAT ACT, AND FOR NO OTHER PURPOSE, TO ESTABLISH A BLUE RIBBON COMMISSION TO STUDY SOLUTIONS TO NORTH CAROLINA'S URBAN TRANSPORTATION NEEDS, TO REQUIRE FUNDS TRANSFERRED FROM THE HIGHWAY TRUST FUND TO THE GENERAL FUND TO BE REPAID, TO DELAY IMPLEMENTATION OF AGRICULTURAL VEHICLE ESCORT TRAINING AND CERTIFICATION, AND TO ALLOW FARMERS TO MOVE EQUIPMENT BETWEEN FARMS WITHOUT A FLAGMAN.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 136-176 is amended by adding a new subsection to read:

"(a3) The Department may obligate three hundred million dollars (\$300,000,000) in fiscal year 2003-2004 and four hundred million dollars (\$400,000,000) in fiscal year 2004-2005 of the cash balance of the Highway Trust Fund for the following purposes:

- (1) Six hundred thirty million dollars (\$630,000,000) for highway system preservation, modernization, and maintenance, including projects to enhance safety, reduce congestion, improve traffic flow, reduce accidents, upgrade pavement widths and shoulders, extend pavement life, improve pavement smoothness, and rehabilitate or replace deficient bridges; and for economic development transportation projects recommended by local officials and approved by the Board of Transportation.
- (2) Seventy million dollars (\$70,000,000) for regional public transit systems, rural and urban public transportation system facilities, regional transportation and air quality initiatives, rail system track improvements and equipment, and other ferry, bicycle, and pedestrian improvements. For any project or program listed in this subdivision for which the Department receives federal funds, use of funds pursuant to this subdivision shall be limited to matching those funds."

**SECTION 2.** G.S. 136-176 is amended by adding a new subsection to read:

"(a4) Project selection pursuant to subsection (a3) of this section shall be based on identified and documented need. Funds expended pursuant to subdivision (1) of subsection (a3) of this section shall be distributed in accordance with the distribution formula in G.S. 136-17.2A. No funds shall be expended pursuant to subsection (a3)(1) of this section on any project that does not meet Department of Transportation standards for road design, materials, construction, and traffic flow."

**SECTION 3.** G.S. 136-176 is amended by adding a new subsection to read:

"(a5) The Department shall report to the Joint Legislative Transportation Oversight Committee, on or before September 1, 2003, on its intended use of funds pursuant to subsection (a3) of this section. The Department shall report to the Joint Transportation Appropriations Subcommittee, on or before May 1, 2004, on its actual current and intended future use of funds pursuant to subsection (a3) of this section. The Department shall certify to the Joint Legislative Transportation Oversight Committee each year, on

or before November 1, that use of the Highway Trust Fund cash balances for the purposes listed in subsection (a3) of this section will not adversely affect the delivery schedule of any Highway Trust Fund projects. If the Department cannot certify that the full amounts authorized in subsection (a3) of this section are available, then the Department may determine the amount that can be used without adversely affecting the delivery schedule and may proportionately apply that amount to the purposes set forth in subsection (a3) of this section."

**SECTION 4.** The General Assembly reaffirms its intent that the proceeds of the issuance of any bonds pursuant to the Highway Bond Act of 1996, Chapter 590 of the 1995 Session Laws, shall be used only for the purposes stated in that act, and for no other purpose.

**SECTION 5.(a)** Commission Established. – There is established in the General Assembly a Blue Ribbon Commission to study the unique mobility needs of urban areas in North Carolina.

**SECTION 5.(b)** Membership. – The Commission shall be composed of 27 members as follows:

- (1) Fifteen members of the public appointed by the Governor, two of whom shall represent the Regional Transportation Alliance, one of whom shall represent the environmental community, two of whom shall represent the Business Coalition for Regional Transportation Solutions, two of whom shall represent the North Carolina Citizens for Business and Industry, two of whom shall represent the transportation industry, and four of whom shall be mayors from among the 10 most populous municipalities in the State.
- (2) Six members of the House of Representatives, representing the diverse geographic regions of the State, appointed by the Speaker of the House of Representatives.
- (3) Six members of the Senate, representing the diverse geographic regions of the State, appointed by the President Pro Tempore of the Senate.

**SECTION 5.(c)** Secretary of Transportation. – The Commission shall invite the Secretary of Transportation to attend each meeting of the Commission and encourage his participation in the Commission's deliberations.

**SECTION 5.(d)** Duties of Commission. – The Commission shall study the following matters related to North Carolina's urban needs:

- (1) Innovative financing approaches to mitigate urban congestion.
- (2) Local revenue options which would give urban areas more control over their regional mobility future.
- (3) Any other urban transportation issues if approved by the cochairs or recommended by the Secretary of Transportation and approved by the cochairs.

**SECTION 5.(e)** Vacancies. – Any vacancy on the Commission shall be filled by the appointing authority.

**SECTION 5.(f)** Cochairs. – Cochairs of the Commission shall be designated by the Speaker of the House of Representatives and the President Pro Tempore of the Senate from among their respective appointees. The Commission shall meet upon the call of the chairs. A quorum of the Commission shall be 11 members.

**SECTION 5.(g)** Expenses of Members. – Members of the Commission shall receive per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1, 138-5, or 138-6, as appropriate.

**SECTION 5.(h)** Staff. – Adequate staff shall be provided to the Commission by the Legislative Services Office.

**SECTION 5.(i)** Consultants. – The Commission may hire consultants to assist with the study. Before expending any funds for a consultant, the Commission shall report to the Joint Legislative Commission on Governmental Operations on the consultant selected, the work products to be provided by the consultant, and the cost of the contract, including an itemization of the cost components.

**SECTION 5.(j)** Cooperation. – The Commission may call upon any department, agency, institution, or officer of the State or any political subdivision thereof for facilities, data, or other assistance.

**SECTION 5.(k)** Meetings During Legislative Session. – The Commission may meet during a regular or extra session of the General Assembly, subject to approval of the Speaker of the House of Representatives and the President Pro Tempore of the Senate.

**SECTION 5.(l)** Meeting Location. – The Commission shall meet at various locations around the State in order to promote greater public participation in its deliberations. The Legislative Services Commission shall grant adequate meeting space to the Commission in the State Legislative Building or the Legislative Office Building.

**SECTION 5.(m)** Report. – The Commission shall make an interim report of its findings and recommendations to the 2004 Regular Session of the 2003 General Assembly and shall make a final report of its findings and recommendations to the 2005 General Assembly. The Committee shall submit copies of the reports to the Governor and the Secretary of Transportation. Upon the filing of its final report, the Commission shall terminate.

**SECTION 5.(n)** Funding. – The Commission may apply for, receive, and accept grants of non-State funds or other contributions as appropriate to assist in the performance of its duties.

**SECTION 5.(o)** Appropriation. – Of the funds appropriated to the General Assembly, the Legislative Services Commission shall allocate sufficient funds for the expenses of the Commission.

**SECTION 5.(p)** This section is effective when it becomes law.

**SECTION 6.** Section 2.2(j) of S.L. 2003-284 reads as rewritten:

**"SECTION 2.2.(j)** When the Highway Trust Fund was created in 1989, the revenue from the sales tax on motor vehicles was transferred from the General Fund to the Highway Trust Fund. To offset this loss of revenue from the General Fund, the Highway Trust Fund was required to transfer one hundred seventy million dollars (\$170,000,000) to the General Fund each year, an amount equal to the revenue in 1989 from the sales tax on motor vehicles. This transfer did not, however, make the General Fund whole after the transfer of the sales tax revenue because no provision has been made to adjust the amount for the increased volume of transactions and increased vehicle prices. The additional funds transferred from the Highway Trust Fund to the General Fund by this act is an effort to recover a portion of the sales tax revenues that would have gone to the General Fund over the last 14 years.

In addition to the transfer authorized under G.S. 105-187.9(b)(2), and notwithstanding Section 26.14 of S.L. 2002-126 and G.S. 105-187.9(b)(1), the sum to be transferred to the General Fund for fiscal year 2003-2004 is two hundred fifty million

dollars (\$250,000,000) and for fiscal year 2004-2005 is two hundred forty million dollars (\$240,000,000). Any funds transferred from the Highway Trust Fund to the General Fund in addition to the transfer authorized by G.S. 105-187.9(b) shall be fully repaid to the Highway Trust Fund in five years beginning in the 2004-2005 fiscal year, using the sum of the digits formula, according to the following repayment schedule: FY 2004-2005 – 7%, FY 2005-2006 – 13%, FY 2006-2007 – 20%, FY 2007-2008 – 27%, and FY 2008-2009 – 33%. The repayment each year shall include interest at the net rate of return generated by the State Treasurer's Short Term Investment Fund."

**SECTION 7.** G.S. 20-119 (f) reads as rewritten:

"(f) The Department of Transportation shall issue rules to establish an escort driver training and certification program for escort vehicles accompanying oversize/overweight loads. Any driver operating a vehicle escorting an oversize/overweight load shall meet any training requirements and obtain certification under the rules issued pursuant to this subsection. These rules may provide for reciprocity with other states having similar escort certification programs. Certification credentials for the driver of an escort vehicle shall be carried in the vehicle and be readily available for inspection by law enforcement personnel. The escort and training certification requirements of this subsection shall not apply to the transportation of agricultural machinery until October 1, 2004."

**SECTION 8.** G.S. 20-116 (j) reads as rewritten:

"(j) Self-propelled grain combines ~~of~~ or other farm equipment self-propelled, pulled or otherwise, not exceeding 18 feet in width may be operated on any highway, except a highway or section of highway that is a part of the National System of Interstate and Defense Highways: Provided that all such combines or equipment which exceed 10 feet in width may be so operated only under the following conditions:

- (1) Said equipment may only be so operated during daylight hours; and
- (2) Said equipment must display a red flag on front and rear, said flags shall not be smaller than three feet wide and four feet long and be attached to a stick, pole, staff, etc., not less than four feet long and shall be so attached to said equipment as to be visible from both directions at all times while being operated on the public highway for not less than 300 feet; and
- (3) Equipment ~~covered~~covered by this section, which by necessity must travel more than 10 miles or where by nature of the terrain or obstacles the flags referred to in subdivision (2) are not visible from both directions for 300 feet at any point along the proposed route, must be preceded at a distance of 300 feet and followed at a distance of 300 feet by a flagman in a vehicle having mounted thereon an appropriate warning light or flag. No flagman in a vehicle shall be required pursuant to this subdivision if the equipment is being moved under its own power or on a trailer from any field to another field, or from the normal place of storage of the vehicle to any field, for no more than ten miles and if visible from both directions for 300 feet at any point along the proposed route.
- (4) Every such piece of equipment so operated shall operate to the right of the center line when meeting traffic coming from the opposite direction and at all other times when possible and practical.
- (5) Violation of this section shall not constitute negligence per se.

- (6) When said equipment is causing a delay in traffic, the operator of said equipment shall move the equipment off the paved portion of the highway at the nearest practical location until the vehicles following said equipment have passed."

**SECTION 9.** Except as otherwise provided, this act becomes effective July 1, 2003.

In the General Assembly read three times and ratified this the 20<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 9:59 a.m. on the 7<sup>th</sup> day of August, 2003.

**H.B. 1257****Session Law 2003-384**

**AN ACT AMENDING VARIOUS PROVISIONS OF THE RESPIRATORY CARE PRACTICE ACT.**

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 90-649(a)(3) reads as rewritten:

"(3) One member shall represent the ~~NCHA~~, North Carolina Hospital Association."

**SECTION 2.** G.S. 90-652(1) reads as rewritten:

"(1) Determine the qualifications and fitness of applicants for licensure, renewal of licensure, and reciprocal licensure. The Board shall, in its discretion, investigate the background of an applicant to determine the applicant's qualifications with due regard given to the applicant's competency, honesty, truthfulness, and integrity."

**SECTION 3.** G.S. 90-653(a) reads as rewritten:

"(a) Each applicant for licensure under this Article shall meet the following requirements:

- (1) Submit a completed application as required by the Board.
- (2) Submit any fees required by the Board.
- (3) Submit to the Board written evidence, verified by oath, that the applicant has successfully completed the minimal requirements of a respiratory care education program as approved by the Commission for Accreditation of Allied Health Educational ~~Programs~~, Programs, or the Canadian Council on Accreditation for Respiratory Therapy Education.
- (4) Submit to the Board written evidence, verified by oath, that the applicant has successfully completed the minimal requirements for Basic Cardiac Life Support as recognized by the American Heart ~~Association~~, Association, the American Red Cross, or the American Safety and Health Institute.
- (5) Pass the entry-level examination given by the National Board for Respiratory Care, Inc."

**SECTION 4.** G.S. 90-654 reads as rewritten:

"§ 90-654. ~~Exemption from certain requirements.~~ Temporary license.

(a) ~~The Board may issue a license to an applicant who, as of October 1, 2000, has passed the entry level examination given by the National Board for Respiratory Care,~~



~~Inc. An applicant applying for licensure under this subsection shall submit his or her application to the Board before October 1, 2002.~~

~~(b) The Board may grant a temporary license to an applicant who, as of October 1, 2000, does not meet the qualifications of G.S. 90-653 but, through written evidence verified by oath, demonstrates that he or she is performing the duties of a respiratory care practitioner within the State. The temporary license is valid until October 1, 2002, within which time the applicant shall be required to complete the requirements of G.S. 90-653(a)(5). A license granted under this subsection shall contain an endorsement indicating that the license is temporary and shall state the date the license was granted and the date it expires.~~

Upon application and payment of the required fees, the Board may grant a temporary license to a person who, at the time of application, submits notarized copies of the items required in G.S. 90-653(a)(3) through (a)(5) while awaiting official copies of the items from the issuing agency. The temporary license shall be valid for a period not to exceed 90 days from the date of application."

**SECTION 5.** G.S. 90-656 reads as rewritten:

"§ **90-656. Provisional license.**

The Board may grant a provisional license for a period not exceeding 12 months to any applicant who has successfully completed the education requirements under G.S. 90-653(a)(3) and has made application to take the examination required under G.S. 90-653(a)(5). A provisional license allows the individual to practice respiratory care under the direct supervision of a respiratory care practitioner and in accordance with rules adopted pursuant to this Article. A license granted under this section shall contain an endorsement indicating that the license is provisional and stating the terms and conditions of its use by the licensee and shall state the date the license was granted and the date it expires."

**SECTION 6.** G.S. 90-660(b) reads as rewritten:

"(b) All monies received by the Board pursuant to this Article shall be deposited in an account for the Board and shall be used for the administration and implementation of this Article. The Board shall establish fees in amounts to cover the cost of services rendered for the following purposes:

- (1) For an initial application, a fee not to exceed twenty-five dollars (\$25.00).
- (2) For examination or reexamination, a fee not to exceed two hundred dollars (\$200.00).
- (3) For issuance of any license, a fee not to exceed one hundred dollars (\$100.00).
- (4) For the renewal of any license, a fee not to exceed fifty dollars (\$50.00).
- (5) For the late renewal of any license, an additional late fee not to exceed fifty dollars (\$50.00).
- (6) For a license with a provisional or temporary endorsement, a fee not to exceed thirty-five dollars (\$35.00).
- (7) For copies of rules adopted pursuant to this Article and licensure standards, charges not exceeding the actual cost of printing and mailing.
- (8) For official verification of licensure status, a fee not to exceed twenty dollars (\$20.00).

- (9) For approval of continuing education programs, a fee not to exceed one hundred fifty dollars (\$150.00)."

**SECTION 7.** G.S. 90-661 reads as rewritten:

**"§ 90-661. Requirement of license.**

~~After October 1, 2002, it~~ It shall be unlawful for any person who is not currently licensed under this Article to:

- (1) Engage in the practice of respiratory care.
- (2) Use the title "respiratory care practitioner".
- (3) Use the letters "RCP", "RTT", "RT", or any facsimile or combination in any words, letters, abbreviations, or insignia.
- (4) Imply orally or in writing or indicate in any way that the person is a respiratory care practitioner or is otherwise licensed under this Article.
- (5) Employ or solicit for employment unlicensed persons to practice respiratory care."

**SECTION 8.** Article 38 of Chapter 90 of the General Statutes is amended by adding a new section to read:

**"§ 90-666. Civil penalties.**

(a) Authority to Assess Civil Penalties. – In addition to taking any of the actions permitted under G.S. 90-659, the Board may assess a civil penalty not to exceed one thousand dollars (\$1,000) for the violation of any section of this Article or any rules adopted by the Board. The clear proceeds of any civil penalty assessed under this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(b) Consideration Factors. – Before imposing and assessing a civil penalty and fixing the amount of the penalty, the Board shall, as a part of its deliberations, consider the following factors:

- (1) The nature, gravity, and persistence of the particular violation.
- (2) The appropriateness of the imposition of a civil penalty when considered alone or in combination with other punishment.
- (3) Whether the violation was willful and malicious.
- (4) Any other factors that would tend to mitigate or aggravate the violations found to exist.

(c) Schedule of Civil Penalties. – The Board shall establish a schedule of civil penalties for violations of this Article. The schedule shall indicate for each type of violation whether the violation can be corrected. Penalties shall be assessed for the first, second, and third violations of specified sections of this Article and for specified rules.

(d) Costs. – The Board may assess the costs of disciplinary actions against a person found to be in violation of this Article or rules adopted by the Board."

**SECTION 9.** This act becomes effective December 1, 2003, and applies to civil penalties assessed on or after that date.

In the General Assembly read three times and ratified this the 19<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 5:17 p.m. on the 7<sup>th</sup> day of August, 2003.

**H.B. 223****Session Law 2003-385**

AN ACT TO PERMIT THE STATE BOARD OF COMMUNITY COLLEGES TO USE CERTAIN FUNDS TO PROVIDE FINANCIAL ASSISTANCE TO STUDENTS WITH DISABILITIES.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 115D-40.1(b) reads as rewritten:

"(b) Targeted Assistance. – Notwithstanding subsection (a) of this section, the State Board may allocate no more than ten percent (10%) of the funds appropriated for Financial Assistance for Community College Students ~~to students to:~~

- (1) Students who do not qualify for need-based assistance but who enroll in low-enrollment programs that prepare students for high-demand occupations, occupations, and
- (2) Students with disabilities who have been referred by the Division of Vocational Rehabilitation and are enrolled in a community college."

**SECTION 2.** This act becomes effective July 1, 2003.

In the General Assembly read three times and ratified this the 17<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 5:18 p.m. on the 7<sup>th</sup> day of August, 2003.

**H.B. 999****Session Law 2003-386**

AN ACT MAKING VOID AND UNENFORCEABLE AS A MATTER OF PUBLIC POLICY ANY PROVISION IN ANY AGREEMENT OR CONTRACT THAT PROHIBITS THE REUSING, REMANUFACTURING, OR REFILLING OF A TONER OR INKJET CARTRIDGE.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Article 1 of Chapter 75 of the General Statutes is amended by adding a new section to read:

**"§ 75-36. Certain contracts relating to toner or inkjet cartridges void and unenforceable as a matter of public policy.**

Any provision in any agreement or contract that prohibits the reusing, remanufacturing, or refilling of a toner or inkjet cartridge is void and unenforceable as a matter of public policy. Nothing in this section shall prevent any maintenance contract that warrants the performance of equipment under the contract from requiring the use of new or specified toner or inkjet cartridges in the equipment under contract."

**SECTION 2.** This act becomes effective October 1, 2003, and applies to agreements or contracts entered into on or after that date. This act does not apply to or affect any litigation pending before that date.

In the General Assembly read three times and ratified this the 16<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 5:19 p.m. on the 7<sup>th</sup> day of August, 2003.

AN ACT TO REQUIRE COMMUNITY WATER SYSTEMS THAT REGULARLY SERVE ONE THOUSAND OR MORE SERVICE CONNECTIONS OR THREE THOUSAND OR MORE INDIVIDUALS TO PREPARE LOCAL WATER SUPPLY PLANS, TO PROVIDE THAT THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES SHALL ESTABLISH A DROUGHT MANAGEMENT ADVISORY COUNCIL, AND TO AUTHORIZE THE COUNCIL TO ISSUE DROUGHT ADVISORIES.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 143-355(l) reads as rewritten:

"(l) For purposes of this subsection, 'community water system' means a community water system, as defined in G.S. 130A-313(10), that regularly serves 1,000 or more service connections or 3,000 or more individuals. Each unit of local government that provides public water service or that plans to provide public water service and each community water system shall, either individually or together with other units of local government, government and community water systems, prepare a local water supply plan and submit it to the Department. The Department shall provide technical assistance with the preparation of plans to units of local government and community water systems upon request and to the extent that the Department has resources available to provide assistance. At a minimum, local-unitseach unit of local government and community water system shall include in local water supply plans all information that is readily available to them.it. Plans shall include present and projected population, industrial development, and water use within the service area, area, present and future water supplies, supplies; an estimate of the technical assistance that may be needed at the local level to address projected water needs, needs; current and future water conservation and water reuse programs, programs; a description of how the local government or community water system will respond to drought and other water shortage emergencies and continue to meet essential public water supply needs during the emergency; and any other related information as the Department may require in the preparation of a State water supply plan. Local plans shall be revised to reflect changes in relevant data and projections at least once each five years unless the Department requests more frequent revisions. The revised plan shall include the current and anticipated reliance by the local government unit or community water system on surface water transfers as defined by G.S. 143-215.22G. Local plans and revised plans shall be submitted to the Department once they have been approved by the unit(s) each unit of local government, government and community water system that participated in the preparation of the plan."

**SECTION 2.** Article 38 of Chapter 143 of the General Statutes is amended by adding a new section to read:

**"§ 143-355.1. Drought Management Advisory Council; drought advisories.**

(a) The Department shall establish a Drought Management Advisory Council. The purposes of the Council are:

- (1) To improve coordination among local, State, and federal agencies; public water systems, as defined in G.S. 130A-313(10); and water users to improve the management and mitigation of the harmful effects of drought.

(2) To provide consistent and accurate information to the public about drought conditions.

(b) The Department shall invite each of the following organizations to designate a representative to serve on the Council:

- (1) North Carolina Cooperative Extension Service.
- (2) State Climate Office at North Carolina State University.
- (3) Public Staff of the Utilities Commission.
- (4) Wildlife Resources Commission.
- (5) Department of Agriculture and Consumer Services.
- (6) Department of Commerce.
- (7) Department of Crime Control and Public Safety.
- (8) National Weather Service of the National Oceanic and Atmospheric Administration of the United States Department of Commerce.
- (9) United States Geological Survey of the United States Department of the Interior.
- (10) United States Army Corps of Engineers.
- (11) United States Department of Agriculture.
- (12) Federal Emergency Management Agency of the United States Department of Homeland Security.

(c) The Department shall also invite other agencies and organizations that represent water users, including local governments, agriculture, agribusiness, forestry, manufacturing, and others as appropriate, to designate a representative to serve on the Council or to participate in the work of the Council with respect to particular drought related issues.

(d) The Department shall designate an employee of the Department to serve as Chair of the Council. The Council shall meet at least once in each calendar year in order to maintain appropriate agency readiness and participation. In addition, the Council shall meet on the call of the Chair to respond to drought conditions. The provisions of Article 33C of this Chapter apply to meetings of the Council.

(e) In order to provide accurate and consistent information to assist local governments and other water users in taking appropriate drought response actions, the Council may issue drought advisories that designate:

- (1) Specific areas of the State in which drought conditions are impending.
- (2) Specific areas of the State that are suffering from drought conditions.
- (3) The level of severity of drought conditions.

(f) In making a determination of any of the drought designations described in subsection (e) of this section, the Council shall consider stream flows, ground water levels, the amount of water stored in reservoirs, weather forecasts, the time of year, and other factors that are relevant to determining the location and severity of drought conditions."

**SECTION 3.** This act is effective when it becomes law. The first local water supply plans prepared by community water systems pursuant to G.S. 143-355(1), as amended by Section 1 of this act, are due on or before 1 January 2004.

In the General Assembly read three times and ratified this the 17<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 5:20 p.m. on the 7<sup>th</sup> day of August, 2003.

## AN ACT TO MODIFY THE PUBLIC FINANCING LAWS OF THE STATE.

Whereas, the State Treasurer's Office formed a Public Finance Advisory Committee comprised of representative city and county governments, as well as the public finance bar and financial services sectors, to review and propose changes to the General Statutes dealing with public finance in an effort to strengthen, modernize, and provide for the most efficient method of issuing of public debt by local governments and other political subdivisions of the State; and

Whereas, the Public Finance Advisory Committee has developed, and the State Treasurer's Office has reviewed, a set of recommendations to the General Assembly for specific changes to relevant General Statutes around which there is consensus that the proposed changes are beneficial to local governments in their issuance of public debt; and

Whereas, the Local Government Commission remains the statutorily designated entity to which all proposed issuances must be submitted for approval, and these recommendations in no way lower or lessen the level of due diligence performed in determining the appropriateness of a specific issuance; and

Whereas, for these reasons, this legislation is submitted for consideration by the General Assembly on behalf of the State Treasurer, the staff of the Local Government Commission, and the Public Finance Advisory Committee; Now, therefore,

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 159-89 reads as rewritten:

**"§ 159-89. Special covenants.**

A revenue bond order or a trust agreement securing revenue bonds may be between the State or the issuing municipality and a bank or trust company located within or without the State of North Carolina, and may contain covenants as to any of the following:

- (1) The pledge of all or any part of revenues received or to be received from the undertaking to be financed by the bonds, or the utility or enterprise of which the undertaking is to become a part.
- (2) Rates, fees, rentals, tolls or other charges to be established, maintained, and collected, and the use and disposal of revenues, gifts, grants, and funds received or to be received.
- (3) The setting aside of debt service reserves and the regulation and disposition thereof.
- (4) The custody, collection, securing, investment, and payment of any moneys held for the payment of revenue bonds.
- (5) Limitations or restrictions on the purposes to which the proceeds of sale of revenue bonds then or thereafter to be issued may be applied.
- (6) Limitations or restrictions on the issuance of additional revenue bonds or notes; the terms upon which additional revenue bonds or notes may be issued and secured; or the refunding of outstanding or other revenue bonds.

- (7) The procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the percentage of revenue bonds the bondholders of which must consent thereto, and the manner in which such consent may be given.
- (8) Events of default and the rights and liabilities arising thereupon, the terms and conditions upon which revenue bonds issued under this Article shall become or may be declared due before maturity, and the terms and conditions upon which such declaration and its consequences may be waived.
- (9) The preparation and maintenance of a budget with respect to the expenses of the State or a municipality, as the case may be, for the operation and maintenance of revenue bond projects.
- (10) The retention or employment of consulting engineers, independent auditors, and other technical consultants in connection with revenue bond projects.
- (11) Limitations on or the prohibition of free service by revenue bond projects to any person, firm, or corporation, public or private.
- (12) The acquisition and disposal of property for revenue bond projects.
- (13) Provisions for insurance and for accounting reports and the inspection and audit thereof.
- (14) The continuing operation and maintenance of the revenue bond project or the utility or enterprise of which it is to become a part."

**SECTION 2.** G.S. 159-65 reads as rewritten:

**"§ 159-65. Resolution fixing the details of the bonds.**

(a) After the bond order has been adopted, the board shall adopt a resolution fixing the details of the bonds. In fixing details of the bonds, the board is subject to these restrictions and directions:

- (1) The ~~maturity~~-dates for payment of installments of principal shall not exceed the maximum periods of usefulness prescribed by the Commission pursuant to G.S. 159-122.
- (2) Bonds authorized by two or more bond orders may be consolidated into a single issue.
- (3) Bonds of each issue shall ~~mature~~-have principal paid in annual installments, the first of which shall be payable not more than three years after the date of the bonds, and the last within the maximum maturity period prescribed by regulation of the Commission under G.S. 159-122.
- (4) No installment of principal for any issue may be more than four times as great in amount as the smallest prior installment of principal for the same issue.
- (5) Bonds of each issue may be issued from time to time in series with different provisions for each series. Each series shall be deemed a separate issue for the purposes of this ~~section~~-section, except that two or more series may be considered to be a single issue under subdivisions (3) and (4) of this subsection if issued on the same day or two consecutive days.
- (6) Any bond may be made payable on demand or tender for purchase as provided in G.S. 159-79, and any bond may be made subject to redemption prior to maturity, with or without premium, on such notice

and at such time or times and with such redemption provisions as may be stated therein. When any such bond ~~shall have~~ has been validly called for redemption and provision ~~shall have~~ has been made for the payment of the principal thereof, any redemption premium, and the interest thereon accrued to the date of redemption, interest thereon shall cease.

- (7) The bonds may bear interest at such rate or rates, payable semiannually or otherwise, may be in such denominations, and may be made payable in such kind of money and in such place or places within or without the State of North Carolina, as the board may determine.

(b) Subdivisions (a)(3) and (4) of this section shall do not apply to refunding bonds or to bonds purchased by a State or federal agency. Such subdivisions ~~(3) Subdivisions (a)(3) and (4) also shall do not apply to bonds the interest on which is or may be includable in gross income for purposes of federal income tax, provided that as long as the dates for payment of principal on these bonds have been approved by the Commission. For the purposes of subdivisions (a)(3) and (4) of this section and for bonds the interest on which is or may be includable in gross income for purposes of federal income tax, payment of an installment of principal may on which such bonds shall be stated to mature shall be approved by the Commission and the Commission may require that the payment of all or any part of the principal of and interest and any premium on such bonds be provided for by the maturity of a bond, mandatory redemption of principal prior to maturity, a sinking fund, a Credit Facility, credit facility as defined in G.S. 159-79, or such any other means as may be satisfactory to the Commission."~~

**SECTION 3.** G.S. 160A-20 reads as rewritten:

"§ 160A-20. Security interests.

(a) Purchase. ~~– Units of local government, as defined in subsection (h), A unit of local government may purchase, or finance or refinance the purchase of, may purchase or finance the purchase of~~ real or personal property by installment contracts that create in some or all of the property purchased a security interest to secure payment of the purchase price to the seller or to an individual or entity advancing moneys or supplying financing for the purchase transaction.

(b) Improvements. ~~– Units of local government, as defined in subsection (h), A unit of local government may finance or refinance the construction or repair of fixtures or improvements on real property by contracts that create in some or all of the fixtures or improvements, or in all or some portion of the property on which the fixtures or improvements are located, or in both, a security interest to secure repayment of moneys advanced or made available for such the construction or repair.~~

(c) Accounts. ~~– Units of local government, as defined in subsection (h), A unit of local government may use escrow accounts in connection with the advance funding of transactions authorized by this section, whereby the proceeds of such the advance funding are invested pending disbursement. A unit of local government may also use other accounts, such as debt service payment accounts and debt service reserve accounts, to facilitate transactions authorized by this section. To secure transactions authorized by this section, a unit of local government may also create security interests in these accounts.~~

(d) Nonsubstitution. ~~– No contract entered into under this section may contain a nonsubstitution clause that restricts the right of a unit of local government to:~~



- (1) Continue to provide a service or activity; or
- (2) Replace or provide a substitute for any fixture, improvement, project, or property ~~financed~~ financed, refinanced, or purchased pursuant to ~~such the~~ contract.

(e) Oversight. – A contract entered into under this section is subject to approval by the Local Government Commission under Article 8 of Chapter 159 of the General Statutes if it:

- (1) Meets the standards set out in G.S. 159-148(a)(1), 159-148(a)(2), and 159-148(a)(3), or involves the construction or repair of fixtures or improvements on real property; and
- (2) Is not exempted from the provisions of that Article by one of the exemptions contained in G.S. 159-148(b).

(e1) Public Hospitals. – A nonprofit ~~corporation or association~~ entity operating or leasing a public hospital may ~~only~~ enter into a contract pursuant to this section only if the nonprofit ~~corporation or association~~ entity will have an ownership interest in the property being ~~financed, financed or refinanced,~~ including a leasehold ~~interest, and the interest.~~ The security interest granted in such the property being financed shall only be shall be only to the extent of ~~such the nonprofit entity's~~ the nonprofit entity's property interest. In addition, any contract entered into by a nonprofit ~~corporation or association~~ entity operating or leasing a public hospital pursuant to this section is subject to the approval of the city, county, hospital district, or hospital authority ~~which that~~ owns such the hospital. Approval of the city, county, hospital district, or hospital authority may be withheld only under one or more of the following circumstances:

- (1) The contract would cause the city, county, hospital district, or hospital authority to breach or violate any covenant in an existing financing instrument entered into by ~~such the nonprofit~~ the nonprofit entity.
- (2) The contract would restrict the ability of the city, county, hospital district, or hospital authority to incur anticipated ~~bank eligible~~ bank-eligible indebtedness under federal tax laws.
- (3) The entering into of the contract would have a ~~material~~ material, adverse impact on the credit ratings of the city, county, hospital district, or hospital authority or would otherwise materially interfere with an anticipated financing by ~~such the nonprofit~~ the nonprofit entity.

(f) Limit of Security. – No deficiency judgment may be rendered against any unit of local government in any action for breach of a contractual obligation authorized by this ~~section, and the section.~~ The taxing power of a unit of local government is not and may not be pledged directly or indirectly to secure any moneys due under a contract authorized by this section.

(g) Public Hearing. – Before entering into a contract under this section involving real property, a unit of local government shall hold a public hearing on the contract. A notice of the public hearing shall be published once at least 10 days before the date fixed for the hearing.

(h) Local Government Defined. – As used in this section, the term "unit of local government" means any of the following:

- (1) A county.
- (2) A city.
- (3) A water and sewer authority created under Article 1 of Chapter 162A of the General Statutes.

- (3a) A metropolitan sewerage district created under Article 5 of Chapter 162A of the General Statutes.
- (3b) A sanitary district created under Part 2 of Article 2 of Chapter 130A of the General Statutes.
- (4) An airport authority whose situs is entirely within a county that has (i) a population of over 120,000 according to the most recent federal decennial census and (ii) an area of less than 200 square miles.
- (5) An airport authority in a county in which there are two incorporated municipalities with a population of more than 65,000 according to the most recent federal decennial census.
- (5a) An airport board or commission authorized by agreement between two cities pursuant to G.S. 63-56, one of which is located partially but not wholly in the county in which the jointly owned airport is located, and where the board or commission provided water and wastewater services off the airport premises before January 1, 1995, except that the authority granted by this subdivision may be exercised by such a board or commission with respect to water and wastewater systems or improvements only.
- (6) A local school administrative unit whose board of education is authorized to levy a school tax.
- (6a) Any other local school administrative unit, but only for the purpose of financing energy conservation measures acquired pursuant to Part 2 of Article 3B of Chapter 143 of the General Statutes.
- (6b) A community college, but only for the purpose of financing energy conservation measures acquired pursuant to Part 2 of Article 3B of Chapter 143 of the General Statutes.
- (7) An area mental health, developmental disabilities, and substance abuse authority, acting in accordance with G.S. 122C-147.
- (8) A consolidated city-county, as defined by G.S. 160B-2(1).
- (9) Repealed by Session Laws 2001-414, s. 52, effective September 14, 2001.
- (10) A regional natural gas district, as defined by Article 28 of this Chapter.
- (11) A regional public transportation authority or a regional transportation authority created pursuant to Article 26 or Article 27 of this Chapter.
- (12) A nonprofit corporation or association operating or leasing a public hospital as defined in G.S. 159-39."

**SECTION 4.** Chapter 159 of the General Statutes is amended by adding a new Article to read:

"Article 13.

"Interest Rate Swap Agreements For Governmental Units.

**"§ 159-193. Definitions.**

The following definitions apply in this Article:

- (1) Governmental unit. – Any of the following:
  - a. A unit of local government as defined in G.S. 159-44.
  - b. A municipality as defined in G.S. 159-81.
  - c. A joint agency as defined in G.S. 159B-3.
  - d. Any department, agency, board, commission, or authority of the State that is authorized by law to issue bonds.

- e. The State Treasurer when participating in the issuance or incurrence of obligations for or on behalf of the State pursuant to an act of the General Assembly.
- (2) Obligations. – Any of the following:
  - a. Bonds, notes, bond anticipation notes, or other evidences of indebtedness issued by a governmental unit.
  - b. Lease purchase or installment financing agreements entered into by a governmental unit.
- (3) Swap agreement. – Any of the following:
  - a. An agreement, including terms and conditions incorporated by reference in the agreement, that is a rate swap agreement, basis swap, forward rate agreement, interest rate option, rate cap agreement, rate floor agreement, rate collar agreement, or other similar agreement, including any option to enter into or terminate any of the foregoing.
  - b. Any combination of the agreements described in sub-subdivision a. of this subdivision.
  - c. A master agreement for any of the agreements described in sub-subdivisions a. and b. of this subdivision, together with all supplements.
  - d. One or more transactions entered into pursuant to a master agreement.

**"§ 159-194. Swap agreements.**

(a) Subject to the provisions of this Article, a governmental unit may from time to time purchase, enter into, modify, amend, or terminate one or more swap agreements that it determines are necessary or desirable in connection with the issuance, incurrence, carrying, or securing of obligations. This authorization also includes the authority to enter into modifications or reversals of a swap agreement previously entered into by the governmental unit and the authority to enter into a swap agreement that modifies the interest rate payment calculation method under a swap agreement previously entered into to another interest rate calculation method or that reverses, in whole or in part, the effect of a prior swap agreement on the governmental unit's interest rate cost or risk. A swap agreement entered into by a governmental unit may contain any provisions, including provisions regarding payments, term, termination payments, security, default, and remedies, and may be with any parties, that the governmental unit determines are necessary or desirable.

(b) No governmental unit shall enter into a swap agreement pursuant to this Article other than for the primary purpose of managing interest rate risk on or interest rate costs of its obligations. A swap agreement may provide that the payments thereunder are based upon a fixed or variable interest rate calculation method. A governmental unit shall not engage in the business of acting as a dealer in swap agreements. A swap agreement may be entered into in connection with specific obligations of the governmental unit, which may consist of multiple series or issues of obligations as specified by the governmental unit. The swap agreement may be entered into at a time before, at the same time as, or after, the obligations are issued or incurred by the governmental unit. Each swap agreement may be entered for a notional amount up to, but not exceeding, the principal amount of the obligations with respect to which the swap agreement is entered. A swap agreement may have a term as long as, or less than, the term of the obligations with respect to which the swap agreement is entered.

(c) In connection with entering into a swap agreement, a governmental unit may enter into credit enhancement agreements to secure the obligations of the governmental unit under the swap agreement, with any payment, security, default, remedy, and other terms and conditions that the governmental unit determines, including entering into binding agreements to deliver collateral, either at the time the swap agreement is entered into or at future times under conditions set forth in the swap agreement.

**"§ 159-195. Nature of duties of a governmental unit under a swap agreement.**

The duty of a governmental unit to make the payments required and to perform the other duties of the governmental unit under a swap agreement shall constitute a continuing contractual obligation of the governmental unit, enforceable in accordance with applicable law for the enforcement of contractual obligations of that governmental unit. A governmental unit may limit its duties under a swap agreement to designated property or a designated source of revenues or receipts of the governmental unit, such as the revenues of a specified utility or other public service enterprise system of the governmental unit. If a governmental unit enters into a swap agreement in connection with obligations that are secured by a designated form of security, then, subject to the terms of the bond order or resolution, trust indenture or trust agreement, installment contract or lease purchase agreement, or similar instrument pursuant to which the obligations are issued or incurred, the governmental unit may pledge, mortgage, or grant a security interest in the revenues of the utility or other public service enterprise system, program, receipts, property, or similar arrangement securing the obligations to secure the payment and performance of its duties under the swap agreement. Any pledge of assets, revenues, or receipts to secure the duties of a governmental unit under a swap agreement shall become effective in the same manner and to the same extent as a pledge of those assets, revenues, or receipts to secure the obligations with respect to which the swap agreement is entered.

**"§ 159-196. Approval by Commission.**

(a) Approval Required. – If either of the following conditions is met, a governmental unit shall not enter into a swap agreement unless the Commission first approves the governmental unit's entering into the swap agreement:

- (1) The unit is a unit of local government as defined in G.S. 159-44, a municipality as defined in G.S. 159-81, or a joint agency as defined in G.S. 159B-3.
- (2) The sale, issuance, or incurrence of the obligations with respect to which the swap agreement is entered into is subject to the approval of the Commission.

(b) Factors. – The Commission may consider all of the following factors in determining whether to approve the swap agreement:

- (1) The nature and amount of the outstanding debt of the governmental unit proposing to enter the swap agreement.
- (2) The governmental unit's debt management procedures and policies.
- (3) To the extent applicable, the governmental unit's compliance with the Local Government Budget and Fiscal Control Act.
- (4) Whether the governmental unit is in default in any of its debt service obligations.
- (5) The credit rating of the governmental unit.

(c) Amendments. – If a swap agreement is subject to approval by the Commission pursuant to this section and is approved, then the governmental unit shall not enter into any amendment to the swap agreement that terminates or changes the time

period covered by the swap agreement, changes the interest rate calculation method under the swap agreement, or changes the notional amounts covered by the swap agreement without the prior approval of the Secretary of the Commission.

(d) Approval Not Required. – A swap agreement is not subject to approval by the Commission except as provided in this section. This section does not require the approval of the Commission of a swap agreement entered into by a private entity receiving the benefit of financing through the issuance of obligations by a governmental unit.

**"§ 159-197. Additional method.**

This Article provides an additional and alternative method for the doing of the things authorized by it and is supplemental to powers conferred by other laws. This Article does not derogate any existing powers.

**"§ 159-198. Severability.**

If any provision of this Article or its application is held invalid, the invalidity does not affect other provisions or applications of this Article that can be given effect without the invalid provisions or application, and to this end the provisions of this Article are severable.

**"§ 159-199. Validation of preexisting swap agreements.**

All proceedings taken by the governing bodies of governmental units in connection with the authorization of swap agreements and all swap agreements entered into by governmental units before the effective date of this Article are ratified.

**"§ 159-200. Liberal construction.**

This Article, being necessary for the prosperity and welfare of the State and its inhabitants, shall be liberally construed to effect its purposes."

**SECTION 5.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 17<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 5:21 p.m. on the 7<sup>th</sup> day of August, 2003.

**S.B. 751**

**Session Law 2003-389**

AN ACT TO AUTHORIZE THE COMMISSIONER OF AGRICULTURE TO IMPOSE CIVIL PENALTIES FOR VIOLATIONS OF THE NORTH CAROLINA FOOD, DRUG AND COSMETIC ACT.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Article 12 of Chapter 106 of the General Statutes is amended by adding a new section to read:

**"§ 106-124.1. Civil penalties.**

(a) The Commissioner may assess a civil penalty of not more than two thousand dollars (\$2,000) against any person who violates a provision of this Article or any rule adopted pursuant to this Article. In determining the amount of the penalty, the Commissioner shall consider the degree and extent of harm caused by the violation.

(b) Prior to assessing a civil penalty, the Commissioner shall give the person written notice of the violation and a reasonable period of time in which to correct the violation. However, the Commissioner shall not be required to give a person time to correct a violation before assessing a penalty if the Commissioner determines the violation is likely to cause future physical injury or illness.

(c) The Commissioner shall consider the training and management practices implemented by the person for the purpose of complying with this Article as a mitigating factor when determining the amount of the civil penalty.

(d) The Commissioner shall remit the clear proceeds of civil penalties assessed pursuant to this section to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

**SECTION 2.** This act becomes effective December 1, 2003, and applies to violations of Article 12 of Chapter 106 of the General Statutes occurring on or after that date.

In the General Assembly read three times and ratified this the 18<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 5:21 p.m. on the 7<sup>th</sup> day of August, 2003.

**H.B. 815****Session Law 2003-390**

AN ACT TO AMEND THE DEFINITION OF CHEMICAL DEPENDENCY TREATMENT FACILITY TO PROVIDE THAT SOCIAL SETTING DETOXIFICATION FACILITIES AND MEDICAL DETOXIFICATION FACILITIES ARE NOT CHEMICAL DEPENDENCY TREATMENT FACILITIES FOR THE PURPOSES OF CERTIFICATE OF NEED REQUIREMENTS AND TO AMEND THE DEFINITION OF CHEMICAL DEPENDENCY TREATMENT BED TO PROVIDE THAT BEDS LICENSED FOR DETOXIFICATION ARE NOT CHEMICAL DEPENDENCY TREATMENT BEDS FOR THE PURPOSES OF CERTIFICATE OF NEED REQUIREMENTS; AND TO PROVIDE THAT SOCIAL SETTING DETOXIFICATION FACILITIES AND MEDICAL DETOXIFICATION FACILITIES SHALL NOT DENY ADMISSION OR TREATMENT TO AN INDIVIDUAL ON THE BASIS OF THE INDIVIDUAL'S INABILITY TO PAY.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 131E-176(5a) reads as rewritten:

"(5a) "Chemical dependency treatment facility" means a public or private facility, or unit in a facility, which is engaged in providing 24-hour a day treatment for chemical dependency or substance abuse. This treatment may include detoxification, administration of a therapeutic regimen for the treatment of chemically dependent or substance abusing persons and related services. The facility or unit may be:

- a. A unit within a general hospital or an attached or freestanding unit of a general hospital licensed under Article 5, Chapter 131E, of the General Statutes,
- b. A unit within a psychiatric hospital or an attached or freestanding unit of a psychiatric hospital licensed under Article 1A of General Statutes Chapter 122 or Article 2 of General Statutes Chapter 122C,
- c. A freestanding facility specializing in treatment of persons who are substance abusers or chemically dependent licensed under Article 1A of General Statutes Chapter 122 or Article 2 of General Statutes Chapter 122C; and may be identified as

"chemical dependency, substance abuse, alcoholism, or drug abuse treatment units," "residential chemical dependency, substance abuse, alcoholism or drug abuse facilities," "~~social setting detoxification facilities~~" and "~~medical detoxification facilities~~,"—or by other names if the purpose is to provide treatment of chemically dependent or substance abusing persons, but shall not include social setting detoxification facilities, medical detoxification facilities, halfway houses or recovery farms."

**SECTION 2.** G.S. 131E-176(5b) reads as rewritten:

"(5b) "Chemical dependency treatment beds" means beds that are licensed ~~for detoxification or~~ for the inpatient treatment of chemical dependency. Residential treatment beds for the treatment of chemical dependency or substance abuse are chemical dependency treatment beds. Chemical dependency treatment beds shall not include beds licensed for detoxification."

**SECTION 3.** G.S. 122C-23 is amended by adding the following new subsection to read:

"§ 122C-23. **Licensure.**

...

(h) A social setting detoxification facility or medical detoxification facility subject to licensure under this Chapter shall not deny admission or treatment to an individual based solely on the individual's inability to pay."

**SECTION 4.** This act is effective when it becomes law. Section 3 of this act applies to social setting detoxification facilities and medical detoxification facilities licensed on and after the effective date of this act.

In the General Assembly read three times and ratified this the 18<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 5:22 p.m. on the 7<sup>th</sup> day of August, 2003.

**H.B. 932**

**Session Law 2003-391**

AN ACT ESTABLISHING REGIONAL INTERAGENCY COORDINATING COUNCILS UNDER THE LAWS RELATING TO EARLY INTERVENTION SERVICES FOR CHILDREN FROM BIRTH TO FIVE YEARS OF AGE WITH DISABILITIES.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Chapter 143B of the General Statutes is amended by adding a new section to read:

"§ 143B-179.5A. **Regional Interagency Coordinating Councils for Children from Birth to Five with Disabilities and Their Families; establishment; composition; organization; duties; compensation; reporting.**

(a) There are established 18 Regional Interagency Coordinating Councils for Children from Birth to Five with Disabilities and Their Families, corresponding with the catchment areas for the Children's Developmental Services Agency of the Division of Public Health, Department of Health and Human Services.

(b) Each Regional Interagency Coordinating Council shall have no more than 30 members, appointed by the NC Interagency Coordinating Council (NC-ICC) and the Division of Public Health. Members of each Regional Council shall serve staggered terms. On or before January 1, 2004, the NC-ICC and the Division of Public Health shall designate no more than 15 appointees to serve for two-year terms on each Regional Council and no more than 15 appointees to serve for one-year terms on each Regional Council. Upon the expiration of the terms of the initial Regional Council members, each member shall be appointed for a term of two years and shall serve until a successor is appointed. The NC-ICC and the Division of Public Health shall have the power to remove any member of a Regional Council from office. Any appointment to fill a vacancy on a Regional Council created by the resignation, dismissal, death, or disability of a member shall be for the remainder of the unexpired term. Members may succeed themselves for one term and may be appointed again after being off a Regional Council for one term. All members shall abide by the state interagency agreement of the NC Interagency Coordinating Council.

(c) The composition of Regional Councils shall be as follows:

- (1) At least twenty percent (20%) parents or families of young children ages birth to five with disabilities for each region.
- (2) One Local Interagency Coordinating Council (LICC) representative for each county in a region.
- (3) The Children's Developmental Services Agency Director.
- (4) One Regional Family Support Network representative for each region.
- (5) One Local Management Entity representative for each region practicing in the area of mental health.
- (6) One health department representative for each region.
- (7) One executive director of a local Partnership for Children for each region.
- (8) One local Department of Social Services representative for each region.
- (9) One representative who is a member of the medical community for each region. Members appointed pursuant to this subdivision may include a pediatrician, or a health care provider, as defined in G.S. 58-50-61(8), at a local hospital, including a neonatal intensive care unit (NICU).
- (10) One Head Start/Early Head Start representative for each region.
- (11) One representative from the Office of Education Services Governor Morehead Early Intervention/Preschool Program for each region.
- (12) One representative from the Office of Education Services Deaf/Hard of Hearing Early Intervention/Preschool Program for each region.
- (13) One representative of the Regional TEACCH program.
- (14) One representative of the Military Early Intervention program, if a military base is present in the region.
- (15) Other public or private providers as recommended by LICCs within the region and as approved by the NC-ICC and the Division of Public Health.

(d) After a Regional Council has appointed its members, the Regional Council shall, at its first meeting, elect a parent and a professional as cochairs to establish any standing or ad hoc committees or task forces necessary to carry out the functions of the



Regional Council. The Regional Council shall meet at least quarterly. A majority of the Regional Council will constitute a quorum for the transaction of business.

(e) Each Regional Council shall be responsible for developing an early intervention plan, in collaboration with the Children's Developmental Services Agency, for all eligible children ages birth to three years and their families in its designated area. The Regional Council shall specifically address in its early intervention plan, as indicated in the 'Individuals with Disabilities Education Act' (IDEA), P.L. 105-17, those efforts designated as local responsibilities, including the following:

- (1) Implementing Child Find through public awareness activities.
- (2) Ensuring the availability of early intervention required services through the assessment of service delivery capacity, the identification of needs, and the development or revision of plans to address gaps or inadequacies.
- (3) Implementing policies for interagency professional development.
- (4) Establishing methods for compliance monitoring and qualitative evaluation of services.
- (5) Developing a plan of coordination and integration with other early childhood special education and related human service planning, such as that carried out by Mental Health Local Management Entities (LMEs), Smart Start, and Local Education Agencies (LEAs).

(f) Each Regional Interagency Coordinating Council shall prepare and submit an annual report to the NC-ICC and all regional early intervention agencies in its area. The annual report shall address the status of the early intervention system for eligible infants and toddlers in its respective region. Additionally, each Regional Council shall report quarterly to the NC-ICC on the development and implementation status of its regional early intervention plan. The Early Intervention Branch of the Division of Public Health shall make significant efforts to identify appropriate sources of non-State funds to support each Regional Council with staff and administrative support."

**SECTION 2.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 19<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 5:23 p.m. on the 7<sup>th</sup> day of August, 2003.

**S.B. 661**

**Session Law 2003-392**

AN ACT TO PROVIDE THAT WHEN A LOCAL CONFINEMENT FACILITY TRANSFERS A PRISONER TO ANOTHER LOCAL CONFINEMENT FACILITY THE TRANSFERRING FACILITY PROVIDES TO THE RECEIVING FACILITY HEALTH INFORMATION ABOUT THE TRANSFERRED PRISONER; AND TO MAKE CHANGES TO THE EMERGENCY MEDICAL SERVICES ACT, TO INCREASE THE CRIMINAL PENALTY FOR DAMAGING A PUBLIC BUILDING WITH AN EXPLOSIVE OR INCENDIARY DEVICE OR MATERIAL, AND TO CREATE THE OFFENSE OF ARSON OR OTHER UNLAWFUL BURNINGS THAT RESULT IN SERIOUS INJURY TO A FIREFIGHTER OR EMERGENCY MEDICAL TECHNICIAN.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 153-225 is amended by adding the following new subsection to read:

"§ 153A-225. **Medical care of prisoners.**

...  
 (b1) Whenever a local confinement facility transfers a prisoner from that facility to another local confinement facility, the transferring facility shall provide the receiving facility with any health information or medical records the transferring facility has in its possession pertaining to the transferred prisoner."

**SECTION 2.(a)** G.S. 131E-155 reads as rewritten:

"§ 131E-155. **Definitions.**

As used in this Article, unless otherwise specified:

- ...
- (7) "Emergency medical services personnel" means all the personnel defined in subdivisions (5), (7a), (8), (9), (10), ~~(11)~~, (12), (13), (14), and (15) of this section.
- (7a) "Emergency medical services instructor" means an individual who has completed educational requirements approved by the Department and has been credentialed as an emergency medical services instructor by the Department.
- (8) "Emergency medical services-nurse practitioner" means a registered nurse who is licensed to practice nursing in North Carolina and approved to perform medical acts by the North Carolina Medical Board and the North Carolina Board of ~~Nursing~~-Nursing. Upon successful completion of an orientation program conducted under the authority of the medical director and approved by the Department, emergency medical services-nurse practitioners shall be approved by the medical director to issue instructions to EMS personnel. These instructions shall be and credentialed by the Office of Emergency Medical Services to issue instructions to ALS professionals in accordance with protocols approved by the sponsor hospital-EMS system and Office of Emergency Medical Services and under the direction of the medical director.
- (9) "Emergency medical services-physician assistant" means a physician assistant who ~~has been~~ is licensed by the North Carolina Medical ~~Board~~-Board. Upon successful completion of an orientation program conducted under the authority of the medical director and approved by the Department, emergency medical services-physician assistants shall be approved by the medical director to issue instructions to EMS personnel. These instructions shall be and approved by the Office of Emergency Medical Services to issue instructions to ALS professionals in accordance with protocols approved by the sponsor hospital-EMS system and Office of Emergency Medical Services and under the direction of the medical director.
- ...
- (11) ~~"Emergency medical technician-defibrillation" means an individual who has completed an educational program in emergency medical care approved by the Department and has been credentialed as an emergency medical technician-defibrillation by the Department.~~

- ...
- (15) "Mobile intensive care nurse" means a registered nurse who is licensed to practice nursing in North Carolina and ~~who has completed an educational program in emergency medical care approved by the Department and has been credentialed as a mobile intensive care nurse by the Department.~~ is approved by the medical director, following successful completion of an orientation program conducted under the authority of the medical director and approved by the Department, to issue instructions to EMS personnel. These instructions shall be in accordance with protocols approved by the EMS system and Office of Emergency Medical Services and under the direction of the medical director.
- ...
- (16a) "Emergency Medical Services Peer Review Committee" means a panel composed of EMS program representatives to be responsible for analyzing patient care data and outcome measures to evaluate the ongoing quality of patient care, system performance, and medical direction within the EMS system. The committee membership shall include physicians, nurses, EMS personnel, medical facility personnel, and county government officials. Review of medical records by the EMS Peer Review Committee is confidential and protected under G.S. 143-518. An EMS Peer Review Committee, its members, proceedings, records and materials produced, and materials considered shall be afforded the same protections afforded Medical Review Committees, their members, proceedings, records, and materials under G.S. 131E-95.
- (17) "Practical examination" means a test where an applicant for credentialing as an emergency medical technician, medical responder, ~~emergency medical technician-defibrillation,~~ emergency medical technician-intermediate, or emergency medical technician-paramedic demonstrates the ability to perform specified emergency medical care skills."

**SECTION 2.(b)** G.S. 131E-159 reads as rewritten:

**"§ 131E-159. Credentialing requirements.**

(a) ~~An individual~~ Individuals seeking credentials as an emergency medical technician, ~~emergency medical technician-defibrillation,~~ emergency medical technician-intermediate, emergency medical technician-paramedic, ~~mobile intensive care nurse, emergency medical services physician assistant, or emergency medical services nurse practitioner~~ medical responder, emergency medical dispatcher, or emergency medical services instructor shall apply to the Department using forms prescribed by that agency. The Department's representatives shall examine the applicant by either written, practical, or written and practical examination. The Department shall issue appropriate credentials to the applicant who meets all the requirements set forth in this Article and the rules adopted for this Article and who successfully completes the examinations required for credentialing. Emergency medical technician, medical responder, emergency medical dispatcher, ~~emergency medical technician-defibrillation,~~ emergency medical technician-intermediate, emergency

medical technician-paramedic, ~~mobile intensive care nurse, emergency medical services physician assistant, and emergency medical services nurse practitioner~~ and emergency medical services instructor credentials shall be valid for a period not to exceed four years and may be renewed if the holder meets the requirements set forth in the rules of the Commission. The Department is authorized to revoke or suspend these credentials at any time it determines that the holder no longer meets the qualifications prescribed.

(b) The Commission shall adopt rules setting forth the qualifications required for credentialing of medical responders, emergency medical technicians, ~~emergency medical technician-defibrillation, emergency medical technician-intermediate, technician-intermediates, emergency medical technician-paramedic, technician-paramedics, emergency medical dispatcher, mobile intensive care nurse, emergency medical services physician assistant, and emergency medical services nurse practitioner~~ dispatchers, and emergency medical services instructors.

(c) ~~An individual~~ Individuals currently credentialed as an emergency medical technician, ~~emergency medical technician-defibrillation, emergency medical technician intermediate, and emergency medical technician paramedic~~ paramedic, medical responder, and emergency medical services instructor by the National Registry of Emergency Medical Technicians or by another state where the education/credentialing requirements have been approved for legal recognition by the Department of Health and Human Services, in accordance with rules promulgated by the Medical Care Commission, and who is either currently residing in North Carolina or affiliated with a permitted EMS provider offering service within North Carolina, may be eligible for credentialing as an emergency medical ~~technician-technician, emergency medical technician-intermediate, emergency medical technician-paramedic, medical responder, and emergency medical services instructor~~ without examination. This credentialing shall be valid for a period not to exceed the length of the ~~emergency medical technician-defibrillation, emergency medical technician-intermediate, and emergency medical technician-paramedic~~ applicant's original credentialing or four years, whichever is less.

(d) An individual currently credentialed as an emergency medical dispatcher by a national credentialing agency, or by another state where the education/credentialing requirements have been approved for legal recognition by the Department of Health and Human Services, in accordance with rules issued by the Medical Care Commission, and who is either currently residing in North Carolina or affiliated with an emergency medical dispatcher program approved by the Department of Health and Human Services offering service within North Carolina, may be eligible for credentialing as an emergency medical dispatcher without examination. This credentialing shall be valid for a period not to exceed the length of the applicant's original credentialing or four years, whichever is less.

(e) Duly authorized representatives of the Department may issue temporary credentials with or without examination upon finding that this action will be in the public interest. Temporary credentials shall be valid for a period not exceeding 90 days.

(f) The Department may deny, suspend, amend, or revoke the credentials of a medical responder, emergency medical technician, ~~emergency medical technician-defibrillation,~~ emergency medical technician-intermediate, emergency medical technician-paramedic, emergency medical dispatcher, ~~emergency medical~~

~~services physician assistant, emergency medical services nurse practitioner, or mobile intensive care nurse~~ or emergency medical services instructor in any case in which the Department finds that there has been a substantial failure to comply with the provisions of this Article or the rules issued under this Article. Prior to implementation of any of the above disciplinary actions, the Department shall consider the recommendations of the EMS Disciplinary Committee pursuant to G.S. 143-519. The Department's decision to deny, suspend, amend, or revoke credentials may be appealed by the applicant or credentialed personnel pursuant to the provisions of Article 3 of Chapter 150B of the General Statutes, the Administrative Procedure Act."

**SECTION 2.(c)** G.S. 131E-162 reads as rewritten:

"§ **131E-162. Statewide trauma system.**

The Department shall establish and maintain a program for the development of a statewide trauma system. The Department shall consolidate all State functions relating to trauma systems, both regulatory and developmental, under the auspices of this program.

The Commission shall adopt rules to carry out the purpose of this Article. These rules shall be adopted with the advice of the State Emergency Medical Services Advisory Council and shall include the operation of a statewide trauma registry, statewide educational requirements fundamental to the implementation of the trauma system. The rules adopted by the Commission shall establish guidelines for monitoring and evaluating the system including standards and criteria for the denial, suspension, voluntary withdrawal, or revocation of credentials for trauma center ~~designation~~ designation, and the establishment of regional trauma peer review committees. Each regional trauma peer review committee shall be responsible for analyzing trauma patient care data and outcome measures to evaluate the ongoing quality of patient care, system performance, and medical direction within the regional trauma system. The committee membership shall include physicians, nurses, EMS personnel, trauma registrars, and hospital administrators. Review of medical records by the Trauma Peer Review Committee is confidential and protected under G.S. 143-518. A Trauma Peer Review Committee, its members, proceedings, records and materials produced, and materials considered shall be afforded the same protections afforded Medical Review Committees, their members, proceedings, records, and materials under G.S. 131E-95. The rules adopted by the Commission shall avoid duplication of reporting and minimize the cost to hospitals or other persons reporting under this act. The Office of Emergency Medical Services shall be the agency responsible for monitoring system development, ensuring compliance with rules, and overseeing system effectiveness.

With respect to collection of data and educational requirements regarding trauma, rules adopted by the Medical Care Commission shall limit the authority of the Department to hospitals and Emergency Medical Services providers. Nothing in this Article shall be interpreted so as to grant the Department authority to require private physicians, schools, or universities, except those participating in the trauma system, to provide information or data or to conduct educational programs regarding trauma."

**SECTION 2.(d)** G.S. 143-508 is amended by adding the following subdivision to read:

"(13) Establish occupational standards for EMS systems, EMS educational institutions, and specialty care transport programs."

**SECTION 2.(e)** G.S. 143-509(9) reads as rewritten:

**"§ 143-509. Powers and duties of Secretary.**

The Secretary of the Department of Health and Human Services has full responsibilities for supervision and direction of the emergency medical services program and, to that end, shall accomplish all of the following:

- ...
- (9) Promote a means of training individuals to administer life-saving treatment to persons who suffer a severe adverse reaction to ~~insect stings.~~ agents that might cause anaphylaxis. Individuals, upon successful completion of this training program, may be approved by the North Carolina Medical Care Commission to administer epinephrine to these persons, in the absence of the availability of physicians or other practitioners who are authorized to administer the treatment. This training may also be offered as part of the emergency medical services training program.

..."

**SECTION 2.(f)** G.S. 143-510 is amended by adding the following new subsection to read:

**"§ 143-510. North Carolina Emergency Medical Services Advisory Council.**

...

(f) The Council shall elect annually from its membership a chairperson and vice-chairperson upon a majority vote of the quorum present."

**SECTION 2.(g)** G.S. 143-518(a) reads as rewritten:

"(a) Medical records compiled and maintained by the ~~Department~~ Department, hospitals participating in the statewide trauma system, or EMS providers in connection with dispatch, response, treatment, or transport of individual patients or in connection with the statewide trauma system pursuant to Article 7 of Chapter 131E of the General Statutes may contain patient identifiable data which will allow linkage to other health care-based data systems for the purposes of quality management, peer review, and public health initiatives.

These medical records and data shall be strictly confidential and shall not be considered public records within the meaning of G.S. 132-1 and shall not be released or made public except under any of the following conditions:

..."

**SECTION 2.(h)** G.S. 143-518(a)(5) reads as rewritten:

- "(5) Release is made to a Medical Review Committee as defined in G.S. 131E-95, 90-21.22A, or 130A-45.7 or to a peer review committee as defined in G.S. 131E-108, 131E-155, 131E-162, 122C-30, or 131D-21.1."

**SECTION 2.(i)** G.S. 143-519 reads as rewritten:

**"§ 143-519. Emergency Medical Services Disciplinary Committee.**

(a) There is created an Emergency Medical Services Disciplinary Committee which shall review and make recommendations to the Department regarding all disciplinary matters relating to credentialing of emergency medical services personnel.

(b) The Emergency Medical Services Disciplinary Committee shall consist of ~~five~~ seven members appointed by the Secretary of the Department of Health and Human Services to serve four-year terms. Two of the members shall be currently practicing local EMS physician medical directors. One member each shall be a current physician member of the North Carolina Medical Board, a current EMS administrator, a current

EMS educator, and a two currently practicing and credentialed EMS personnel, one of whom shall be an emergency medical technician-paramedic.

(c) In order to stagger the terms of the membership of the Committee, the initial appointment for one of the local EMS physician medical directors and the currently practicing and credentialed emergency medical technician-paramedic shall be for a three-year term. The other three initial appointments and all future appointments shall be for four-year terms.

(d) Any appointment to fill a vacancy on the Committee created by a resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term.

(e) A majority of the Committee shall constitute a quorum for the transaction of business. The Department of Health and Human Services, Division of Facilities Services, Office of Emergency Medical Services, shall supply all clerical and other services required by the Committee.

(f) The Committee shall elect annually from its membership a chairperson and vice-chairperson upon a majority vote of the quorum present."

**SECTION 3.(a)** Article 15 of Chapter 14 of the General Statutes is amended by adding a new section to read:

**"§ 14-69.3. Arson or other unlawful burning that results in serious injury to a firefighter or emergency medical technician.**

A person is guilty of a Class E felony if the person commits a felony under Article 15 of Chapter 14 of the General Statutes and a firefighter or emergency medical technician suffers serious bodily injury while discharging or attempting to discharge the firefighter's or emergency medical technician's duties on the property, or proximate to the property, that is the subject of the firefighter's or emergency medical technician's discharge or attempt to discharge his or her respective duties. As used in this section, the term 'emergency medical technician' includes an emergency medical technician, an emergency medical technician-intermediate, and an emergency medical technician-paramedic, as those terms are defined in G.S. 131E-155."

**SECTION 3.(b)** If Section 1 of Senate Bill 867 of the 2003 General Assembly is enacted by the 2003 General Assembly, then Section 1 of Senate Bill 867 is repealed.

**SECTION 3.(c)** G.S. 14-49 is amended by adding a new subsection to read:

"(b2) Any person who willfully and maliciously damages, aids, counsels, or procures the damaging of the State Capitol, the Legislative Building, the Justice Building, or any building owned or occupied by the State or any of its agencies, institutions, or subdivisions or by any county, incorporated city or town, or other governmental entity by the use of any explosive or incendiary device or material is guilty of a Class E felony."

**SECTION 4.** This act is effective when it becomes law. Section 3 of this act becomes effective December 1, 2003, and applies to offenses that occur on or after that date.

In the General Assembly read three times and ratified this the 20<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 5:26 p.m. on the 7<sup>th</sup> day of August, 2003.

AN ACT REQUIRING NURSING HOMES TO ESTABLISH A MEDICATION MANAGEMENT ADVISORY COMMITTEE AND SPECIFYING THE DUTIES OF THE COMMITTEE AND TO REQUIRE NURSING HOMES TO DO CERTAIN THINGS PERTAINING TO THE REDUCTION OF MEDICATION-RELATED ERRORS TO INCREASE PATIENT SAFETY.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Part 2 of Article 6 of Chapter 131E of the General Statutes is amended by adding the following new sections to read:

**"§ 131E-128.1. Nursing home medication management advisory committee.**

(a) Definitions. – As used in this section, unless the context requires otherwise, the term:

- (1) 'Advisory committee' means a medication management committee established under this section to advise the quality assurance committee.
- (2) 'Medication-related error' means any preventable medication-related event that adversely affects a patient in a nursing home and that is related to professional practice, or health care products, procedures, and systems, including prescribing, prescription order communications, product labeling, packaging and nomenclature, compounding, dispensing, distribution, administration, education, monitoring, and use.
- (3) 'Nursing home' means a nursing home licensed under this Chapter and includes an adult care home operated as part of a nursing home.
- (4) 'Potential medication-related error' means a medication-related error that has not yet adversely affected a patient in a nursing home, but that has the potential to if not anticipated or prevented or if left unnoticed.
- (5) 'Quality assurance committee' means a committee established in a nursing home in accordance with federal and State regulations to identify circumstances requiring quality assessment and assurance activities and to develop and implement appropriate plans of action to correct deficiencies in quality of care.

(b) Purpose. – It is the purpose of the General Assembly to enhance compliance with this Part through the establishment of medication management advisory committees in nursing homes. The purpose of these committees is to assist nursing homes to identify medication-related errors, evaluate the causes of those errors, and take appropriate actions to ensure the safe prescribing, dispensing, and administration of medications to nursing home patients.

(c) Advisory Committee Established; Membership. – Every nursing home shall establish a medication management advisory committee to advise the quality assurance committee on quality of care issues related to pharmaceutical and medication management and use in the nursing home. The nursing home shall maintain the advisory committee as part of its administrative duties. The advisory committee shall be interdisciplinary and consist of the nursing home administrator and at least the following members appointed by the nursing home administrator:

- (1) The director of nursing.
- (2) The consultant pharmacist.



(3) A physician designated by the nursing home administrator.

(4) At least three other members of the nursing home staff.

(d) Meetings. – The advisory committee shall meet as needed but not less frequently than quarterly. The Director of Nursing or Staff Development Coordinator shall chair the advisory committee. The nursing home administrator shall ensure that a record is maintained of each meeting.

(e) Confidentiality. – The meetings or proceedings of the advisory committee, the records and materials it produces, and the materials it considers, including analyses and reports pertaining to medication-related error reporting under G.S. 131E-128.2 and G.S. 131E-128.5 and pharmacy reports on drug defects and adverse reactions under G.S. 131E-128.4, shall be confidential and not be considered public records within the meaning of G.S. 132-1. The meetings or proceedings and records and materials also shall not be subject to discovery or introduction into evidence in any civil action against a nursing home or a provider of professional health services resulting from matters that are the subject of evaluation and review by the committee. No person who was in attendance at a meeting of the committee shall testify in any civil action as to any evidence or other matters produced or presented during the meetings or proceedings of the committee or as to any findings, recommendations, evaluations, opinions, or other actions of the committee or its members. Notwithstanding the foregoing:

(1) Information, documents, or records otherwise available, including any deficiencies found in the course of an inspection conducted under G.S. 131E-105, shall not be immune from discovery or use in a civil action merely because they were presented during meetings or proceedings of the advisory committee. A member of the advisory committee or a person who testifies before the committee may testify in a civil action but cannot be asked about that person's testimony before the committee or any opinion formed as a result of the committee meetings or proceedings.

(2) Information that is confidential and not subject to discovery or use in civil actions under this subsection may be released to a professional standards review organization that performs any accreditation or certification function. Information released to the professional standards review organization shall be limited to information reasonably necessary and relevant to the standards review organization's determination to grant or continue accreditation or certification. Information released to the standards review organization retains its confidentiality and is not subject to discovery or use in any civil action as provided under this subsection. The standards review organization shall keep the information confidential subject to this subsection.

(3) Information that is confidential and not subject to discovery or use in civil actions under this subsection may be released to the Department of Health and Human Services pursuant to its investigative authority under G.S. 131E-105. Information released to the Department shall be limited to information reasonably necessary and relevant to the Department's investigation of compliance with Part 1 of Article 6 of this Chapter. Information released to the Department retains its confidentiality and is not subject to discovery or use in any civil action

as provided in this subsection. The Department shall keep the information confidential subject to this subsection.

- (4) Information that is confidential and is not subject to discovery or use in civil actions under this subsection may be released to an occupational licensing board having jurisdiction over the license of an individual involved in an incident that is under review or investigation by the advisory committee. Information released to the occupational licensing board shall be limited to information reasonably necessary and relevant to an investigation being conducted by the licensing board pertaining to the individual's involvement in the incident under review by the advisory committee. Information released to an occupational licensing board retains its confidentiality and is not subject to discovery or use in any civil action as provided in this subsection. The occupational licensing board shall keep the information confidential subject to this subsection.

(f) Duties. – The advisory committee shall do the following:

- (1) Assess the nursing home's pharmaceutical management system, including its prescribing, distribution, administration policies, procedures, and practices and identify areas at high risk for medication-related errors.
- (2) Review the nursing home's pharmaceutical management goals and respond accordingly to ensure that these goals are being met.
- (3) Review, investigate, and respond to nursing home incident reports, deficiencies cited by licensing or credentialing agencies, and resident grievances that involve actual or potential medication-related errors.
- (4) Identify goals and recommendations to implement best practices and procedures, including risk reduction technology, to improve patient safety by reducing the risk of medication-related errors.
- (5) Develop recommendations to establish a mandatory, nonpunitive, confidential reporting system within the nursing home of actual and potential medication-related errors.
- (6) Develop specifications for drug dispensing and administration documentation procedures to ensure compliance with federal and State law, including the North Carolina Nursing Practice Act.
- (7) Develop specifications for self-administration of drugs by qualified patients in accordance with law, including recommendations for assessment procedures that identify patients who may be qualified to self-administer their medications.

(g) Penalty. – The Department may take adverse action against the license of a nursing home upon a finding that the nursing home has failed to comply with this section, G.S. 131E-128.2, 131E-128.3, 131E-128.4, or 131E-128.5.

**"§ 131E-128.2. Nursing home quality assurance committee; duties related to medication error prevention.**

Every nursing home administrator shall ensure that the nursing home quality assurance committee develops and implements appropriate measures to minimize the risk of actual and potential medication-related errors, including the measures listed in this section. The design and implementation of the measures shall be based upon recommendations of the medication management advisory committee and shall:

- (1) Increase awareness and education of the patient and family members about all medications that the patient is using, both prescription and over-the-counter, including dietary supplements.
- (2) Increase prescription legibility.
- (3) Minimize confusion in prescription drug labeling and packaging, including unit dose packaging.
- (4) Develop a confidential and nonpunitive process for internal reporting of actual and potential medication-related errors.
- (5) To the extent practicable, implement proven medication safety practices, including the use of automated drug ordering and dispensing systems.
- (6) Educate facility staff engaged in medication administration activities on similar-sounding drug names.
- (7) Implement a system to accurately identify recipients before any drug is administered.
- (8) Implement policies and procedures designed to improve accuracy in medication administration and in documentation by properly authorized individuals, in accordance with prescribed orders and stop order policies.
- (9) Implement policies and procedures for patient self-administration of medication.
- (10) Investigate and analyze the frequency and root causes of general categories and specific types of actual or potential medication-related errors.
- (11) Develop recommendations for plans of action to correct identified deficiencies in the facility's pharmaceutical management practices.

**"§ 131E-128.3. Staff orientation on medication error prevention.**

The nursing home administrator shall ensure that the nursing home provide a minimum of one hour of education and training in the prevention of actual or potential medication-related errors. This training shall be provided upon orientation and annually thereafter to all nonphysician personnel involved in direct patient care. The content of the training shall include at least the following:

- (1) General information relevant to the administration of medications including terminology, procedures, routes of medication administration, potential side effects, and adverse reactions.
- (2) Additional instruction on categories of medication pertaining to the specific needs of the patient receiving the medication.
- (3) The facility's policy and procedures regarding its medication administration system.
- (4) How to assist patients with safe and accurate self-administration of medication, where appropriate.
- (5) Identifying and reporting actual and potential medication-related errors.

**"§ 131E-128.4. Nursing home pharmacy reports; duties of consultant pharmacist.**

(a) The consultant pharmacist for a nursing home shall conduct a drug regimen review for actual and potential drug therapy problems in the nursing home and make remedial or preventive clinical recommendations into the medical record of every patient receiving medication. The consultant pharmacist shall conduct the review at least monthly in accordance with the nursing home's policies and procedures.

(b) The consultant pharmacist shall report and document any drug irregularities and clinical recommendations promptly to the attending physician or nurse-in-charge and the nursing home administrator. The reports shall include problems identified and recommendations concerning:

- (1) Drug therapy that may be affected by biological agents, laboratory tests, special dietary requirements, and foods used or administered concomitantly with other medication to the same recipient.
- (2) Monitoring for potential adverse effects.
- (3) Allergies.
- (4) Drug interactions, including interactions between prescription drugs and over-the-counter drugs, drugs and disease, and interactions between drugs and nutrients.
- (5) Contraindications and precautions.
- (6) Potential therapeutic duplication.
- (7) Overextended length of treatment of certain drugs typically prescribed for a short period of time.
- (8) Beer's listed drugs that are potentially inappropriate for use by elderly persons.
- (9) Undertreatment or medical conditions that are suboptimally treated or not treated at all that warrant additional drug therapy to ensure quality of care.
- (10) Other identified problems and recommendations.

(c) The consultant pharmacist shall report drug product defects and adverse drug reactions in accordance with the ASHSP-USP-FDA Drug Product Defect Reporting System and the USP Adverse Drug Reaction Reporting System. The term "ASHSP-USP-FDA" means American Society of Health System Pharmacists-United States Pharmacopoeia-Food and Drug Administration. Information released to the ASHSP-USP-FDA retains its confidentiality and is not subject to discovery or use in any civil action as provided under G.S. 131E-128.1.

(d) The consultant pharmacist shall ensure that all known allergies and adverse effects are documented in plain view in the patient's medical record, including the medication administration records, and communicated to the dispensing pharmacy. The specific medications and the type of allergy or adverse reaction shall be specified in the documentation.

(e) The consultant pharmacist shall ensure that drugs that are not specifically limited as to duration of use or number of doses shall be controlled by automatic stop orders. The consultant pharmacist shall further ensure that the prescribing provider is notified of the automatic stop order prior to the dispensing of the last dose so that the provider may decide whether to continue to use the drug.

(f) The consultant pharmacist shall, on a quarterly basis, submit a summary of the reports submitted under subsections (a) and (b) of this section to the medication management advisory committee established under G.S. 131E-128.1. The summary shall not include any information that would identify a patient, a family member, or an employee of the nursing home. The purpose of the summary shall be to facilitate the identification and analysis of weaknesses in the nursing home's pharmaceutical care system that have an adverse impact on patient safety.

**"§ 131E-128.5. Medication-related error reports.**

(a) The Secretary of Health and Human Services shall contract with a public or private entity to develop and implement a Medication Error Quality Initiative. The

Initiative would provide for, among other things, receipt and analysis by the contracting entity of annual reports from each nursing home on the nursing home's medication-related errors. The report submitted by the nursing home shall not contain information that would identify the patient, the individual reporting the error, or other persons involved in the occurrence. The report shall include the following:

- (1) The total number of medication-related errors for the preceding year.
- (2) A listing of the types of medication-related errors, the number of medication-related errors, the root cause analysis of each error, and the staff level involved.
- (3) A listing of the types of injuries caused and the number of injuries occurring.
- (4) The types of liability claims filed based on an adverse incident or reportable injury.

(b) The contracting entity shall provide for analysis of the medication-related error reports to determine trends in the incidence of medication-related errors in nursing homes. Information released to the contractor retains its confidentiality and is not subject to discovery or use in any civil action as provided under G.S. 131E-128.1, and the contractor shall keep the information confidential subject to that section."

**SECTION 2.** The Department shall use available grants and federal funds to implement G.S. 131E-128.5 as enacted in this act.

**SECTION 3.** This act becomes effective January 1, 2004.

In the General Assembly read three times and ratified this the 16<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 5:27 p.m. on the 7<sup>th</sup> day of August, 2003.

## **H.B. 963**

## **Session Law 2003-394**

AN ACT TO PROVIDE THAT CERTAIN PERSONS CONVICTED OF LEAVING THE SCENE OF AN ACCIDENT INVOLVING PERSONAL INJURY OR DEATH MAY LOSE THEIR LICENSE FOR A PERIOD OF TWO YEARS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 20-166 is amended by adding a new subsection to read:

"(e) The Division of Motor Vehicles shall revoke the drivers license of a person convicted of violating subsection (a) of this section for a period of one year, unless the court makes a finding that a longer period of revocation is appropriate under the circumstances of the case. If the court makes this finding, the Division of Motor Vehicles shall revoke that person's drivers license for two years. Upon a first conviction only for a violation of subsection (a) of this section, a trial judge may allow limited driving privileges in the manner set forth in G.S. 20-179.3(b)(2) during any period of time during which the drivers license is revoked."

**SECTION 2.** This act becomes effective December 1, 2003, and applies to offenses committed on or after that date. Prosecutions for offenses committed before the effective date of this act are not abated or affected by this act, and the statutes that would be applicable but for this act remain applicable to those prosecutions.

In the General Assembly read three times and ratified this the 17<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 5:28 p.m. on the 7<sup>th</sup> day of August, 2003.

**H.B. 986****Session Law 2003-395**

AN ACT TO REQUIRE A MOTOR VEHICLE INSURER TO DISCLOSE ANY FINANCIAL INTEREST IN A RECOMMENDED REPAIR FACILITY OR SERVICE AND REQUIRING AN INSURER TO DISCLOSE THE USE OF NONORIGINAL CRASH REPAIR PARTS OR NONORIGINAL AUTO GLASS FOR MOTOR VEHICLE REPAIRS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 58-3-180(b1) reads as rewritten:

"(b1) No insurer or insurer representative shall recommend the use of a particular motor vehicle repair service without clearly informing the claimant that (i) the claimant is under no obligation to use the recommended repair service, (ii) the claimant may use the repair service of the claimant's choice, ~~and~~ (iii) the amount determined by the insurer to be payable under the policy will be paid regardless of whether or not the claimant uses the recommended repair ~~service~~ service, and (iv) that the insurer or insurer representative has, at the time the recommendations are made, a financial interest in the recommended motor vehicle repair service. No insurer shall require that the insured or claimant must have a damaged vehicle repaired at an insurer-owned motor vehicle repair service."

**SECTION 2.** Chapter 58 of the General Statutes is amended by adding a new section to read:

**"§ 58-36-95. Use of nonoriginal crash repair parts.**

(a) As used in this section, the following definitions apply:

- (1) "Insurer" includes any person authorized to represent an insurer with respect to a claim.
- (2) "Nonoriginal crash repair part" refers to sheet metal and/or plastic parts – generally components of the exterior of a motor vehicle – that are not manufactured by or for the original equipment manufacturer of the vehicle.

(b) An insurer shall disclose to a claimant in writing, either on the estimate or on a separate document attached to the estimate, the following in no smaller than ten point type: 'THIS ESTIMATE HAS BEEN PREPARED BASED ON THE USE OF AUTOMOBILE PARTS NOT MADE BY THE ORIGINAL MANUFACTURER. PARTS USED IN THE REPAIR OF YOUR VEHICLE MADE BY OTHER THAN THE ORIGINAL MANUFACTURER ARE REQUIRED TO BE AT LEAST EQUIVALENT IN TERMS OF FIT, QUALITY, PERFORMANCE, AND WARRANTY TO THE ORIGINAL MANUFACTURER PARTS THEY ARE REPLACING.'

(c) It is a violation of G.S. 58-2-180 for an automobile repair facility or parts person to place a nonoriginal crash repair part, nonoriginal windshield, or nonoriginal auto glass on a motor vehicle and to submit an invoice for an original repair part.

(d) Any insurer or other person who has reason to believe that fraud has occurred under this section shall report that fraud to the Commissioner for further action pursuant to G.S. 58-2-160."

**SECTION 3.** Article 36 of Chapter 58 of the General Statutes is amended by adding a new section to read:

**"§ 58-36-41. Development of policy endorsement for exclusive use of original equipment manufactured crash parts.**

The Rate Bureau shall develop an optional policy endorsement to be filed with the Commissioner for approval that permits policyholders to elect nonfleet private passenger motor vehicle physical damage coverage specifying the exclusive use of original equipment manufactured crash parts."

**SECTION 4.** Sections 2 and 3 of this act become effective January 1, 2004. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 19<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 5:29 p.m. on the 7<sup>th</sup> day of August, 2003.

**S.B. 934**

**Session Law 2003-396**

AN ACT TO ESTABLISH A REGISTRATION FEE FOR THE AUTHORIZATION OF A PRIVATE FACILITY TO SERVE DWI OFFENDERS AND TO REQUIRE THE JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES TO STUDY THE SUBSTANCE ABUSE SERVICES OFFERED BY AN ASSESSING AGENCY AND THE ADEQUACY OF THE FEE IMPOSED FOR A SUBSTANCE ABUSE ASSESSMENT CONDUCTED BY AN ASSESSING AGENCY.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 122C-142.1(a) reads as rewritten:

"(a) Services. – An area authority shall provide, directly or by contract, the substance abuse services needed by a person to obtain a certificate of completion required under G.S. 20-17.6 as a condition for the restoration of a drivers license. A person may obtain the required services from an area facility, from a private facility ~~that has complied with this subsection, authorized by the Department to provide this service,~~ or, with the approval of the Department, from an agency that is located in another state. ~~Before a private facility located in this State provides the substance abuse services needed by a person to obtain a certificate of completion, the facility shall notify both the designated area facility for the catchment area in which it is located and the Department of its intent to provide the services and shall agree to comply with the laws and rules concerning these services that apply to area facilities."~~

**SECTION 2.** The Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services shall study the programs offered by assessing agencies to clients who must obtain a substance abuse assessment and a certification of completion of a substance abuse program. The study should include information on the type of testing provided by an agency, the treatment offered by an agency, the average duration of a program, the average cost of treatment, the rates of recidivism, and the adequacy of the fee paid to the assessing agency by a

client for a required substance abuse assessment. The Committee must report its findings and any recommended legislation to the 2004 Regular Session of the 2003 General Assembly.

**SECTION 3.** G.S. 122C-142.1 is amended by adding a new subsection to read:

"(a1) Authorization of a Private Facility Provider. – The Department shall authorize a private facility located in this State to provide substance abuse services needed by a person to obtain a certificate of completion if the private facility complies with all of the requirements of this subsection:

- (1) Notifies both the designated area facility for the catchment area in which it is located and the Department of its intent to provide the services.
- (2) Agrees to comply with the laws and rules concerning these services that apply to area facilities.
- (3) Pays the Department the applicable fee for authorizing and monitoring the services of the facility. The initial fee is payable at the time the facility notifies the Department of its intent to provide the services and by July 1 of each year thereafter. Collected fees shall be used by the Division for program monitoring and quality assurance. The applicable fee is based upon the number of assessments completed during the prior fiscal year as set forth below:

<u>Number of Assessments</u>	<u>Fee Amount</u>
<u>0-24</u>	<u>\$250.00</u>
<u>25-99</u>	<u>\$500.00</u>
<u>100 or more</u>	<u>\$750.00."</u>

**SECTION 4.** G.S. 122C-142.1 is amended by adding a new subsection to read:

"(f1) Multiple Assessments. – If a person has more than one offense for which a certificate of completion is required under G.S. 20-17.6, the person shall pay the assessment fee required under subsection (f) of this section for each certificate of completion required. However, the facility shall conduct only one substance abuse assessment and recommend only one ADET school or treatment program for all certificates of completion required at that time, and the person shall pay the fee required under subsection (f) of this section for only one school or treatment program.

If any of the criteria in subdivisions (c)(1), (c)(2), or (c)(3) of this section are present in any of the offenses for which the person needs a certificate of completion, completion of a treatment program shall be required pursuant to subsection (c) of this section.

The provisions of this subsection do not apply to subsequent assessments performed after a certificate of completion has already been issued for a previous assessment."

**SECTION 5.** This act becomes effective October 1, 2003. Section 2 of this act applies to assessing agencies conducting substance abuse assessments on or after that date. Section 3 of this act applies to private facilities providing substance abuse services on or after that date. Section 4 of this act applies to assessments pending on or after that date.

In the General Assembly read three times and ratified this the 18<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 5:31 p.m. on the 7<sup>th</sup> day of August, 2003.



## S.B. 61

## Session Law 2003-397

AN ACT TO BRING STATE LAW INTO COMPLIANCE WITH RECENTLY ADOPTED FEDERAL REGULATIONS CONCERNING THE EFFECT OF VIOLATION OF RAILROAD CROSSING SAFETY AND OTHER STATE LAWS ON COMMERCIAL DRIVERS LICENSES, AND REQUIRING A NEW "S" ENDORSEMENT FOR PERSONS OPERATING SCHOOL BUSES, AS RECOMMENDED BY THE JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE, AND TO AUTHORIZE A STUDY OF THE NEED FOR A MOPED IDENTIFICATION TAG PROGRAM.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 20-4.01(41a) reads as rewritten:

"(41a) Serious Traffic Violation. – A conviction of one of the following offenses when operating a commercial motor vehicle:

- a. Excessive speeding, involving a single charge of any speed 15 miles per hour or more above the posted speed limit.
- b. Careless and reckless driving.
- c. A violation of any State or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with a fatal accident.
- d. Improper or erratic lane changes.
- e. Following the vehicle ahead too closely.
- f. Driving a commercial motor vehicle without obtaining a commercial drivers license.
- g. Driving a commercial motor vehicle without a commercial drivers license in the driver's possession.
- h. Driving a commercial motor vehicle without the proper class of commercial drivers license or endorsements for the specific vehicle group being operated or for the passenger or type of cargo being transported."

**SECTION 2.** G.S. 20-17.4 is amended by adding a new subsection to read:

"(k) Disqualification for Railroad Grade Crossing Offenses. – Any person convicted of a violation of G.S. 20-142.1 through G.S. 20-142.5, when the driver is operating a commercial motor vehicle, shall be disqualified from driving a commercial motor vehicle as follows:

- (1) A person is disqualified for a period of 60 days if convicted of a first violation of a railroad grade crossing offense listed in this subsection.
- (2) A person is disqualified for a period of 120 days if convicted during any three-year period of a second violation of any combination of railroad grade crossing offenses listed in this subsection.
- (3) A person is disqualified for a period of one year if convicted during any three-year period of a third or subsequent violation of any combination of railroad grade crossing offenses listed in this subsection."

**SECTION 3.** G.S. 20-37.12 is amended by adding a new subsection to read:

"(f) A person shall not be convicted of failing to carry a commercial drivers license if, by the date the person is required to appear in court for the violation, the person produces to the court a commercial drivers license issued to the person that was valid on the date of the offense."

**SECTION 4.** G.S. 20-37.16 reads as rewritten:

**"§ 20-37.16. Content of license; classifications and endorsements; fees.**

(a) A commercial drivers license must be marked "Commercial Drivers License" or "CDL" and must contain the information required by G.S. 20-7 for a regular drivers license.

(b) The classes of commercial drivers licenses are:

- (1) Class A CDL – A Class A commercial drivers license authorizes the holder to drive any Class A motor vehicle.
- (2) Class B CDL – A Class B commercial drivers license authorizes the holder to drive any Class B motor vehicle.
- (3) Class C CDL – A Class C commercial drivers license authorizes the holder to drive any Class C motor vehicle.

(c) Endorsements. – The endorsements required to drive certain motor vehicles are as follows:

<u>Endorsement</u>	<u>Vehicles That Can Be Driven</u>
H	Vehicles, regardless of size or class, except tank vehicles, when transporting hazardous materials that require the vehicle to be placarded
M	Motorcycles
N	Tank vehicles not carrying hazardous materials
P	Vehicles carrying passengers
<u>S</u>	<u>School bus</u>
T	Double trailers
X	Tank vehicles carrying hazardous materials.

To obtain an H or an X endorsement, an applicant must take a test. This requirement applies when a person first obtains an H or an X endorsement and each time a person renews an H or an X endorsement. An applicant who has an H or an X endorsement issued by another state who applies for an H or an X endorsement must take a test unless the person has passed a test that covers the information set out in 49 C.F.R. § 383.121 within the preceding two years.

(d) The fee for a Class A, B, or C commercial drivers license is ten dollars (\$10.00) for each year of the period for which the license is issued. The fee for each endorsement is one dollar and twenty-five cents (\$1.25) for each year of the period for which the endorsement is issued. The fees required under this section do not apply to a ~~person whose license is restricted to driving a school bus or school activity bus or to~~ employees of the Driver License Section of the Division who are designated by the Commissioner.

(e) The requirements for a commercial drivers license do not apply to vehicles used for personal use such as recreational vehicles. A commercial drivers license is also waived for the following classes of vehicles as permitted by regulation of the United States Department of Transportation:

- (1) Vehicles owned or operated by the Department of Defense, including the National Guard, while they are driven by active duty military

personnel, or members of the National Guard when on active duty, in the pursuit of military purposes.

- (2) Any vehicle when used as firefighting or emergency equipment for the purpose of preserving life or property or to execute emergency governmental functions.
- (3) A farm vehicle that meets all of the following criteria:
  - a. Is controlled and operated by the farmer or the farmer's employee and used exclusively for farm use.
  - b. Is used to transport either agricultural products, farm machinery, or farm supplies, both to or from a farm.
  - c. Is not used in the operations of a for-hire motor carrier.
  - d. Is used within 150 miles of the farmer's farm.

A farm vehicle includes a forestry vehicle that meets the listed criteria when applied to the forestry operation.

(f) For the purposes of this section, the term 'school bus' has the same meaning as in 49 C.F.R. § 383.5."

**SECTION 5.** G.S. 20-37.16 is amended by adding a new subsection to read:

"(c1) The test for an S endorsement shall be waived by the Division for an applicant who is currently licensed, has experience driving a school bus, has a good driving record, and meets the requirements of this subsection. An applicant for a waiver under this subsection shall verify that, during the two-year period immediately prior to application for an S endorsement, the applicant met all of the following requirements:

- (1) The applicant held a valid commercial drivers license with a passenger vehicle endorsement to operate a school bus representative of the group the applicant will be driving.
- (2) The applicant did not have the applicant's drivers license or commercial drivers license suspended, revoked, or cancelled, or the applicant was not disqualified from operating a commercial motor vehicle.
- (3) The applicant was not convicted of a State law offense that corresponds to the list of disqualifying offenses in 49 C.F.R. § 383.51(b) while operating a commercial motor vehicle or of any offense in a noncommercial motor vehicle that would be a disqualifying offense under 49 C.F.R. § 383.51(b) if committed in a commercial motor vehicle.
- (4) The applicant was not convicted of more than one of the serious traffic violations listed and defined in G.S. 20-4.01(41a) while operating any type of motor vehicle.
- (5) The applicant was not convicted of a violation of State or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with any traffic accident.
- (6) The applicant was not convicted of any motor vehicle traffic violation that resulted in an accident.
- (7) The applicant was regularly employed as a school bus driver, operated a school bus representative of the group the applicant seeks to drive, and provides evidence of that employment."

**SECTION 6.** The Joint Legislative Transportation Oversight Committee may study the need for a moped identification tag program. If the Committee finds that

identifying mopeds is a desirable public policy, then it should recommend the method of identifying mopeds, the process for identifying the mopeds, the administrative agency responsible for identifying mopeds, and any other issues that relate to the administration of the moped identification process. The Committee may report its findings and any recommended legislation to the 2004 Regular Session of the 2003 General Assembly or to the 2005 Regular Session of the 2005 General Assembly.

**SECTION 7.** Sections 2, 4, and 5 of this act become effective October 1, 2003. Section 5 of this act expires September 30, 2005. Sections 1 and 3 of this act become effective January 1, 2005. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 19<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 5:32 p.m. on the 7<sup>th</sup> day of August, 2003.

**H.B. 860**

**Session Law 2003-398**

**AN ACT TO AMEND THE REGISTRATION REQUIREMENTS AND FEES TO ENGAGE IN CERTAIN ACTIVITIES WITH CONTROLLED SUBSTANCES.**

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 90-101(a) reads as rewritten:

"(a) Every person who manufactures, distributes, dispenses, or conducts research with any controlled substance within this State or who proposes to engage in any of these activities shall annually register with the North Carolina Department of Health and Human Services, in accordance with rules adopted by the Commission, and shall pay the registration fee set by the Commission for the category to which the applicant belongs. An applicant for registration shall file an application for registration with the Department of Health and Human Services and submit the required fee with the application. The categories of applicants and the maximum fee for each category are as follows:

<u>CATEGORY</u>	<u>MAXIMUM FEE</u>
Clinic .....	\$150.00
Hospital .....	350.00
Nursing Home .....	150.00
Teaching Institution .....	150.00
Researcher .....	150.00
Analytical Laboratory .....	150.00
<u>Dog Handler</u> .....	<u>150.00</u>
Distributor .....	600.00
Manufacturer .....	700.00."

**SECTION 2.** Article 5 of Chapter 90 of the General Statutes is amended by adding a new section to read:

**"§ 90-102.1. Registration of persons requiring limited use of controlled substances for training purposes in certain businesses.**

(a) Definitions. – As used in this Article:

(1) 'Commercial detection service' means any person, firm, association, or corporation contracting with another person, firm, association, or

corporation for a fee or other valuable consideration to place, lease, or rent a trained drug detection dog with a dog handler.

- (2) 'Dog handler' means a person trained in the handling of drug detection dogs, including the care, feeding, and maintenance of drug detection dogs and the procedures necessary to train and control the behavior of drug detection dogs.
- (3) 'Drug detection dog' means a dog trained to locate controlled substances by scent.

(b) Registration. – A dog handler who is not exempt from registration under G.S. 90-101 who intends to use any controlled substance included in Schedules I through VI for the limited purpose of the initial training and maintenance training of drug detection dogs shall file an application for registration with the Department of Health and Human Services and pay the applicable fee as provided in G.S. 90-101.

(c) Prerequisites for Registration. – Upon receipt of an application, the Department of Health and Human Services shall conduct a background investigation, during the course of which the applicant shall be required to show that the applicant meets all the following requirements and qualifications:

- (1) That the applicant is at least 21 years of age.
- (2) That the applicant is of good moral character and temperate habits. The following shall be prima facie evidence that the applicant does not have good moral character or temperate habits:
  - a. Conviction of any crime involving the illegal use, possession, sale, manufacture, distribution, or transportation of a controlled substance, drug, narcotic, or alcoholic beverage;
  - b. Conviction of a felony or a crime involving an act of violence;
  - c. Conviction of a crime involving unlawful breaking or entering, burglary, larceny, or any offense involving moral turpitude; or
  - d. A history of addiction to alcohol or a narcotic drug;

provided that, for purposes of this subsection, conviction means and includes the entry of a plea of guilty or no contest or a verdict rendered in open court by a judge or jury.

- (3) That the applicant has not been convicted of any felony involving the illegal use, possession, sale, manufacture, distribution, or transportation of a controlled substance, drug, narcotic, or alcoholic beverage.
- (4) That the applicant has the necessary training, qualifications, and experience to demonstrate competency and fitness as a dog handler as the Department of Health and Human Services may determine by rule for all registrations to be approved by the Department.
- (5) That the applicant affirms in writing that if the application for registration is approved, the applicant shall report all dog alerts to, or finds of, any controlled substance to a law enforcement agency having jurisdiction in the area where the dog alert occurs or where the controlled substance is found.

(d) Criminal Record Check. – The Department of Justice may provide a criminal record check to the Department of Health and Human Services for a person who has applied for a new or renewal registration. The Department of Health and Human Services shall provide to the Department of Justice, along with the request, the fingerprints of the applicant, any additional information required by the Department of Justice, and a form signed by the applicant consenting to the check of the criminal

record and to the use of the fingerprints and other identifying information required by the State or national repositories. The applicant's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of the fingerprints to the Federal Bureau of Investigation for a national criminal history check. The Department of Health and Human Services shall keep all information pursuant to this subsection privileged, in accordance with applicable State law and federal guidelines, and the information shall be confidential and shall not be a public record under Chapter 132 of the General Statutes. The Department of Justice may charge each applicant a fee for conducting the checks of criminal history records authorized by this subsection.

(e) Acquisition of Controlled Substances. – If the application for registration is approved, the registrant may lawfully obtain and possess controlled substances in the manner and to the extent authorized by the registration, in conformity with G.S. 90-105, other provisions of this Article, and rules promulgated by the Commission pursuant to G.S. 90-100.

(f) Record Keeping; Physical Security. – Each registrant shall keep records and maintain inventories in the manner specified in G.S. 90-104. Registrants shall provide effective controls and procedures to guard against theft and diversion of controlled substances. Controlled substances shall be stored in a securely locked, substantially constructed cabinet, and the storage area shall be protected by an alarm system that is continuously monitored by an alarm company central station.

(g) Disclosure of Discovery of Controlled Substances. – A dog handler shall, upon a dog alert or finding of a controlled substance, notify the State or local law enforcement agency having jurisdiction over the area where the dog alert occurs or the controlled substance is found. Before leaving the premises where the dog alert occurs or where the controlled substance is found, the dog handler shall inform law enforcement of the dog alert or the finding of a controlled substance and shall provide all relevant information concerning the dog alert or the discovery of the controlled substance.

(h) Commercial Detection Services; Dog Certification and Client Confidentiality. – Any drug detection dog utilized in a commercial detection service in this State shall first be certified by a canine certification association approved by the Department of Health and Human Services. Any person, including a nonresident, engaged in providing a commercial detection service in this State shall comply with the requirements of subsection (g) of this section regarding disclosure of the discovery of controlled substances. Client records of a dog handler who provides a commercial detection service for controlled substances shall be confidential unless the dog handler is required to report a dog alert or finding of a controlled substance in the course of a search, the records are lawfully subpoenaed, or the records are obtained by a law enforcement officer pursuant to a court order, a search warrant, or an exception to the search warrant requirement.

(i) Notice of Disclosure Requirement. – A dog handler shall provide conspicuous written notice to clients at the dog handler's place of business and in the contract for services stating that the dog handler is required by law to notify law enforcement of any dog alert or finding of a controlled substance.

Any person who contracts with a dog handler to provide commercial drug detection services shall provide conspicuous written notice to any person whose person or property may be subject to search stating that the premises is subject to search and that the dog handler is required by law to notify law enforcement of any dog alert or finding of a controlled substance.

(j) The Department of Health and Human Services shall have the power to investigate or cause to be investigated any complaints, allegations, or suspicions of wrongdoing or violations of this section involving individuals registered or applying to be registered under this section. The Department or the Commission may deny, suspend, or revoke a registration issued under this section if it is determined that the applicant or registrant has:

- (1) Made any false statement or given any false information in connection with any application for a registration or for the renewal or reinstatement of a registration.
- (2) Violated any provision of this Article.
- (3) Violated any rule promulgated by the Department of Health and Human Services or the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services pursuant to the authority contained in this Article.

(k) This section does not apply to law enforcement agencies, to dog handlers and drug detection dogs that are employed or under contract to law enforcement agencies, or to other persons who are exempt from registration under G.S. 90-101(c)(5)."

**SECTION 3.** Pursuant to G.S. 90-100, the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services may adopt temporary and permanent rules relating to the acquisition, possession, and security of controlled substances by persons registered under the provisions of G.S. 90-102.1, as enacted by this act. The Department of Health and Human Services may adopt temporary and permanent rules relating to the training and qualifications for dog handlers and the certification of drug detection dogs subject to the provisions of G.S. 90-102.1, as enacted by this act.

**SECTION 4.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 19<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 5:33 p.m. on the 7<sup>th</sup> day of August, 2003.

## **H.B. 972**

## **Session Law 2003-399**

### **AN ACT TO ALLOW AN INTERNET-BASED ALTERNATIVE TO PROPERTY TAX CERTIFICATION PROCEDURES.**

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 105-361 is amended by adding a new subsection to read:

"(e) Internet. – If the taxing unit maintains an Internet web site on which current information on the amount of taxes, special assessments, penalties, interest, and costs due on any real or personal property is available, the governing body of the taxing unit may adopt an ordinance to allow a person to rely on information obtained from the web site as if it were a certificate issued pursuant to subsection (a) of this section. The ordinance may provide for disclaimers to be posted on the web site containing language notifying the person relying on the information contained in the web site about matters relevant to the information, such as the date on which the information was posted, the date as of which the information is current, and any special instructions and procedures for accessing the complete and accurate information. The ordinance may also provide

for appropriate procedural provisions by which the tax collector may ensure full and accurate payment of all taxes, assessments, and obligations certified under this subsection.

A person who relies on the web site information must keep and present a copy of the information as necessary or appropriate, as if the copy were a certificate issued under subsection (a) of this section. The tax collector shall be liable on the tax collector's bond for any loss to the taxing unit arising from an understatement of the tax and special assessment obligations contained in the information available on the web site unless the taxing unit's ordinance provides the disclaimers authorized by this subsection."

**SECTION 2.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 19<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 5:34 p.m. on the 7<sup>th</sup> day of August, 2003.

## H.B. 1006

## Session Law 2003-400

AN ACT TO GRANT GREATER CONSUMER PROTECTION TO RESIDENTS OF MANUFACTURED HOUSING IN NORTH CAROLINA, TO CLARIFY THE SALES TAX ON MODULAR HOMES, AND TO ESTABLISH MINIMUM CONSTRUCTION AND DESIGN STANDARDS FOR SINGLE-FAMILY MODULAR HOMES.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 20-109.2 reads as rewritten:

**"§ 20-109.2. Surrender of title to manufactured home.**

(a) Surrender of Title. – If a title has been issued for a manufactured home and the manufactured home qualifies as real property as defined in G.S. 105-273(13), the owner shall submit an affidavit to the Division that the manufactured home meets this definition and surrender the certificate of title to the Division.

(b) Affidavit. – The affidavit must be in a form approved by the Commissioner and shall include or provide for all of the following information:

- (1) The manufacturer and, if applicable, the model name of the manufactured home.
- (2) The vehicle identification number and serial number of the manufactured home.
- (3) The legal description of the real property on which the manufactured home is placed, stating that the owner of the manufactured home also owns the real ~~property~~property or that the owner of the manufactured home has entered into a lease with a primary term of at least 20 years for the real property on which the manufactured home is affixed with a copy of the lease or a memorandum thereof pursuant to G.S. 47-18 attached to the affidavit, if not previously recorded.
- (4) A description of any security interests in the manufactured home.
- (5) A section for the Division's notation or statement that the title has been surrendered and cancelled by the Division.

(c) Cancellation. – Upon compliance by the owner with the procedure for surrender of title, the Division shall rescind and cancel the certificate of title. If a security interest has been recorded on the certificate of ~~title~~title and not released by the



secured party, the Division may not cancel the title without written consent from all secured parties. After canceling the title, the Division shall return the original of the affidavit to the owner, or to the secured party having the first recorded security interest, with the Division's notation or statement that the title has been surrendered and has been cancelled by the Division. The owner or secured party shall file the affidavit returned by the Division with the office of the register of deeds of the county where the real property is located. The Division may charge five dollars (\$5.00) for a cancellation of a title under this section.

(d) Application for Title After Cancellation. – If the owner of a manufactured home whose certificate of title has been cancelled under this section subsequently seeks to separate the manufactured home from the real property, the owner may apply for a new certificate of title. The owner must submit to the Division an affidavit containing the same information set out in subsection (b) of this section, verification that the manufactured home has been removed from the real property, and written consent of any affected owners of recorded mortgages, deeds of trust, or security interests in the real property where the manufactured home was placed. The Commissioner may require evidence sufficient to demonstrate that all affected owners of security interests have been notified and consent. Upon receipt of this information, together with a title application and required fee, the Division is authorized to issue a new title for the manufactured home.

(e) Sanctions. – Any person who violates this section is subject to a civil penalty of up to one hundred dollars (\$100.00), to be imposed in the discretion of the Commissioner."

**SECTION 2.** G.S. 47-20.6(a) reads as rewritten:

"(a) If the owner of real property or the owner of the manufactured home who has entered into a lease with a primary term of at least 20 years for the real property on which the manufactured home is affixed has surrendered the title to a manufactured home that is placed on the real property and the title has been cancelled by the Division of Motor Vehicles under G.S. 20-109.2, the owner, or the secured party having the first security interest in the manufactured home at time of surrender, shall record the affidavit described in G.S. 20-109.2 with the office of the register of deeds of the county where the real property is located. Upon recordation, the affidavit shall be indexed on the grantor index in the name of the owner of the manufactured home and on the grantee index in the name of the secured party or lienholder, if any."

**SECTION 3.** G.S. 47-20.7(a) reads as rewritten:

"(a) A person who owns real property on which a manufactured home has ~~been, been or will be placed,~~ placed or the owner of a manufactured home who has entered into a lease with a primary term of at least 20 years for the real property on which the manufactured home has been or will be placed, as defined in G.S. 105-273(13), and either where the manufactured home has never been titled by the Division of Motor Vehicles or where the title to the manufactured home has been surrendered and cancelled by the ~~Division,~~ Division prior to January 1, 2002, may record in the office of the register of deeds of the county where the real property is located a declaration of intent to affix the manufactured home to the property and may convey or encumber the real property, including the manufactured home, by a deed, deed of trust, or other instrument recorded in the office of the register of deeds."

**SECTION 4.** G.S. 105-273(13) reads as rewritten:

**"§ 105-273. Definitions.**

When used in this Subchapter (unless the context requires a different meaning):

...

- (13) "Real property," "real estate," and "land" mean not only the land itself, but also buildings, structures, improvements, and permanent fixtures on the land, and all rights and privileges belonging or in any way appertaining to the property. These terms also mean a manufactured home as defined in G.S. 143-143.9(6) if it is a residential structure; has the moving hitch, wheels, and axles removed; and is placed upon a permanent foundation either on land owned by the owner of the manufactured home or on land in which the owner of the manufactured home has a leasehold interest pursuant to a lease with a primary term of at least 20 years for the real property on which the manufactured home is affixed and where the lease expressly provides for disposition of the manufactured home upon termination of the lease. A manufactured home as defined in G.S. 143-143.9(6) that does not meet all of these conditions is considered tangible personal property."

**SECTION 5.** Chapter 42 of the General Statutes is amended by adding a new section to read:

**"§ 42-14.3. Notice of conversion of manufactured home communities.**

(a) In the event that an owner of a manufactured home community (defined as a parcel of land, whether undivided or subdivided, that has been designed to accommodate at least five manufactured homes) intends to convert the manufactured home community, or any part thereof, to another use that will require movement of the manufactured homes, the owner of the manufactured home community shall give each owner of a manufactured home notice of the intended conversion at least 180 days before the owner of a manufactured home is required to vacate and move the manufactured home, regardless of the term of the tenancy. Failure to give notice as required by this section is a defense in an action for possession. The respective rights and obligations of the community owner and the owner of the manufactured home under their lease shall continue in effect during the notice period.

(b) Notwithstanding subsection (a) of this section, if a manufactured home community is being closed pursuant to a valid order of any unit of State or local government, the owner of the community shall be required to give notice of the closure of the community to each resident of the community within three business days of the date on which the order is issued."

**SECTION 6.** Chapter 143 of the General Statutes is amended by adding a new section to read:

**"§ 143-143.20A. Display of pricing on manufactured homes.**

(a) If the manufacturer of a manufactured home publishes a manufacturer's suggested retail price, that price shall be displayed near the front entrance of the manufactured home.

(b) Each manufactured home dealer shall prominently display a sign and provide to each buyer a notice, developed by the North Carolina Manufactured Housing Board, containing information about the Board, including how to file a consumer complaint with the Board and the warranties and protections provided for each new manufactured home under federal and State law."

**SECTION 7.** G.S. 143-143.21A reads as rewritten:**"§ 143-143.21A. Purchase agreements; buyer cancellations.**

(a) A purchase agreement for a manufactured home shall include all of the following:

- (1) A description of the manufactured home and all accessories included in the purchase.
- (2) The purchase price for the home and all accessories.
- (3) The amount of deposit or other payment toward or payment of the purchase price of the manufactured home and accessories that is made by the buyer.
- (4) The date the retail purchase agreement is signed.
- (5) The estimated terms of financing the purchase, if any, including the estimated interest rate, number of years financed, and monthly payment.
- (6) The buyer's signature.
- (7) The dealer's signature.

(b) The purchase agreement shall contain, in immediate proximity to the space reserved for the signature of the buyer and in at least ten point, all upper-case Gothic type, the following statement:

"I UNDERSTAND THAT I HAVE THE RIGHT TO CANCEL THIS PURCHASE BEFORE MIDNIGHT OF THE THIRD BUSINESS DAY AFTER THE DATE THAT I HAVE SIGNED THIS AGREEMENT. I UNDERSTAND THAT THIS CANCELLATION MUST BE IN WRITING. IF I CANCEL THE PURCHASE AFTER THE THREE-DAY PERIOD, I UNDERSTAND THAT THE DEALER MAY NOT HAVE ANY OBLIGATION TO GIVE ME BACK ALL OF THE MONEY THAT I PAID THE DEALER. I UNDERSTAND ANY CHANGE TO THE TERMS OF THE PURCHASE AGREEMENT BY THE DEALER WILL CANCEL THIS AGREEMENT."

(c) At the time the deposit or other payment toward or payment for the purchase price is received by the dealer, the dealer shall give the buyer a copy of the purchase agreement and a completed form in duplicate, captioned "Notice of Cancellation," which shall be attached to the purchase agreement, be easily detachable, and explain the buyer's right to cancel the purchase and how that right can be exercised.

(d) The dealer shall return the deposit or other payment toward or payment for the purchase price to the buyer if the buyer cancels the purchase before midnight of the third business day after the date the buyer signed the purchase ~~agreement~~agreement or if any of the material terms of the purchase agreement are changed by the dealer. To make the cancellation effective, the buyer shall give the dealer written notice of the buyer's cancellation of the purchase. The dealer shall return the deposit or other payment toward or payment for the purchase price to the buyer within 15 business days after receipt of the notice of ~~cancellation~~cancellation or within three business days of any change by the dealer of the purchase agreement. For purposes of this section, "business day" means any day except Sunday and legal holidays. Each time the dealer gives the buyer a new set of financing terms, unless the financing terms are more favorable to the buyer, the buyer shall be given another three-day cancellation period. The dealer shall not commence setup procedures until after the final three-day cancellation period has expired.

(e) If the buyer cancels the purchase after the three-day cancellation period, but before the sale is completed, and if:

- (1) The manufactured home is in the dealer's inventory, the dealer may retain from the deposit or other payment received from the buyer actual damages up to a maximum of ten percent (10%) of the purchase price; or
- (2) The manufactured home is specially ordered from the manufacturer for the buyer, the dealer may retain actual damages up to the full amount of the buyer's deposit or other payment received from the buyer.

(f) The Board shall adopt rules concerning the terms of any deposit paid by a buyer to a dealer. The rules may exempt deposits of less than two thousand dollars (\$2,000). To the extent practicable, the rules shall protect the deposits from the claims of the creditors of a dealer that may thereafter be in bankruptcy. The rules shall further provide for the prompt return of a buyer's deposit if the buyer is entitled to its return."

**SECTION 8.** Chapter 143 of the General Statutes is amended by adding a new section to read:

**"§ 143-143.10A. Criminal history checks of applicants for licensure.**

- (a) Definitions. – The following definitions shall apply in this section:
- (1) Applicant. – A person applying for licensure as a manufactured home manufacturer, dealer, salesperson, or set-up contractor.
  - (2) Criminal history. – A history of conviction of a state or federal crime, whether a misdemeanor or felony, that bears on an applicant's fitness for licensure under this Article. The crimes include the criminal offenses set forth in any of the following Articles of Chapter 14 of the General Statutes: Article 5, Counterfeiting and Issuing Monetary Substitutes; Article 5A, Endangering Executive and Legislative Officers; Article 6, Homicide; Article 7A, Rape and Other Sex Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; Article 14, Burglary and Other Housebreakings; Article 15, Arson and Other Burnings; Article 16, Larceny; Article 17, Robbery; Article 18, Embezzlement; Article 19, False Pretenses and Cheats; Article 19A, Obtaining Property or Services by False or Fraudulent Use of Credit Device or Other Means; Article 19B, Financial Transaction Card Crime Act; Article 20, Frauds; Article 21, Forgery; Article 26, Offenses Against Public Morality and Decency; Article 26A, Adult Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29, Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses Against the Public Peace; Article 36A, Riots and Civil Disorders; Article 39, Protection of Minors; Article 40, Protection of the Family; Article 59, Public Intoxication; and Article 60, Computer-Related Crime. The crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act in Article 5 of Chapter 90 of the General Statutes and alcohol-related offenses including sale to underage persons in violation of G.S. 18B-302 or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5. In addition to the North Carolina crimes listed in this subdivision, such crimes also include similar crimes under federal law or under the laws of other states.

(b) All applicants for licensure shall consent to a criminal history record check. Refusal to consent to a criminal history record check may constitute grounds for the Board to deny licensure to an applicant. The Board shall ensure that the State and national criminal history of an applicant is checked. The Board shall be responsible for providing to the North Carolina Department of Justice the fingerprints of the applicant to be checked, a form signed by the applicant consenting to the criminal record check and the use of fingerprints and other identifying information required by the State or National Repositories of Criminal Histories, and any additional information required by the Department of Justice. The Board shall keep all information obtained pursuant to this section confidential.

(c) If an applicant's criminal history record check reveals one or more convictions listed under subdivision (a)(2) of this section, the conviction shall not automatically bar licensure. The Board shall consider all of the following factors regarding the conviction:

- (1) The level of seriousness of the crime.
- (2) The date of the crime.
- (3) The age of the person at the time of the conviction.
- (4) The circumstances surrounding the commission of the crime, if known.
- (5) The nexus between the criminal conduct of the person and the job duties of the position to be filled.
- (6) The person's prison, jail, probation, parole, rehabilitation, and employment records since the date the crime was committed.
- (7) The subsequent commission by the person of a crime listed in subdivision (a)(2) of this section.

If, after reviewing these factors, the Board determines that the applicant's criminal history disqualifies the applicant for licensure, the Board may deny licensure of the applicant. The Board may disclose to the applicant information contained in the criminal history record check that is relevant to the denial. The Board shall not provide a copy of the criminal history record check to the applicant. The applicant shall have the right to appear before the Board to appeal the Board's decision. However, an appearance before the full Board shall constitute an exhaustion of administrative remedies in accordance with Chapter 150B of the General Statutes.

(d) Limited Immunity. – The Board, its officers, and employees, acting in good faith and in compliance with this section, shall be immune from civil liability for denying licensure to an applicant based on information provided in the applicant's criminal history record check."

**SECTION 9.** G.S. 143-143.10(b) is amended by adding a new subdivision to read:

"(b) In accordance with the provisions of this Article, the Board shall have the following powers and duties:

- ...
- (6) To request that the Department of Justice conduct criminal history checks of applicants for licensure pursuant to G.S. 114-19.13."

**SECTION 10.** G.S. 143-143.11(b) reads as rewritten:

"(b) Application for the license shall be made to the Board at such time, in such form, and contain information the Board requires, and shall be accompanied by the fee established by the Board. The fee shall not exceed three hundred dollars (\$300.00) for any license. In addition to the license fee, the Board may also charge an applicant a fee to cover the cost of the criminal history record check required by G.S. 143-143.10A."

**SECTION 11.** G.S. 143-143.13(a)(12) reads as rewritten:

"(a) A license may be denied, suspended or revoked by the Board on any one or more of the following grounds:

...  
 (12) Conviction of ~~a felony or any crime involving moral turpitude~~. any crime listed in G.S. 143-143.10A."

**SECTION 12.** Article 4 of Chapter 114 of the General Statutes is amended by adding a new section to read:

**"§ 114-19.13. Criminal record checks of applicants for manufactured home manufacturer, dealer, salesperson, or set-up contractor licensure.**

The Department of Justice may provide to the North Carolina Manufactured Housing Board from the State and National Repositories of Criminal Histories the criminal history of any applicant for licensure as a manufactured home manufacturer, dealer, salesperson, or set-up contractor under Article 9A of Chapter 143 of the General Statutes. Along with the request, the Board shall provide to the Department of Justice the fingerprints of the applicant, a form signed by the applicant consenting to the criminal record check, and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Department of Justice. The applicant's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Board shall keep all information obtained pursuant to this section confidential. The Department of Justice may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information."

**SECTION 13.** G.S. 105-164.3(20) reads as rewritten:

"(20) Manufactured home. – A structure that is designed to be used as a dwelling and is manufactured in accordance with the specifications for manufactured homes issued by the United States Department of Housing and Urban Development.~~that meets one of the following conditions:~~

- a. ~~Is manufactured in accordance with the specifications for manufactured homes issued by the United States Department of Housing and Urban Development.~~
- b. ~~Is manufactured in accordance with the specifications for modular homes under the North Carolina State Residential Building Code, is built on a permanent chassis, and is transportable in one or more sections."~~

**SECTION 14.** G.S. 105-164.3 is amended by adding two new subdivisions to read:

"(21a) Modular home. – A factory-built structure that is designed to be used as a dwelling, is manufactured in accordance with the specifications for modular homes under the North Carolina State Residential Building Code, and bears a seal or label issued by the Department of Insurance pursuant to G.S. 143-139.1.

(21b) Modular homebuilder. – A person who furnishes for consideration a modular home to a purchaser that will occupy the modular home. The purchaser can be a person that will lease or rent the unit as real property."

**SECTION 15.** G.S. 105-164.4(a) is amended by adding a new subdivision to read:

"(8) The rate of two and one-half percent (2.5%) applies to the sales price of each modular home sold, including all accessories attached to the modular home when it is delivered to the purchaser. For the purposes of this subdivision, the retail sale is deemed to be the sale of a modular home to a modular homebuilder."

**SECTION 16.** Part 8 of Article 5 of Chapter 105 of the General Statutes is amended by adding a new section to read:

**"§ 105-164.44G. Distribution of part of tax on modular homes.**

The Secretary must distribute to counties twenty percent (20%) of the taxes collected under G.S. 105-164.4(a)(8) on modular homes. The Secretary must make the distribution on a monthly basis in accordance with the distribution formula in G.S. 105-520 by including the taxes on modular homes with local tax revenue that is not attributable to a particular county."

**SECTION 17.** G.S. 143-139.1 reads as rewritten:

**"§ 143-139.1. Certification of manufactured buildings, structures or components by recognized independent testing ~~laboratory.~~ ~~laboratory;~~ ~~minimum standards for modular homes.~~**

(a) Certification. – The State Building Code may provide, in circumstances deemed appropriate by the Building Code Council, for testing, evaluation, inspection, and certification of buildings, structures or components manufactured off the site on which they are to be erected, by a recognized independent testing laboratory having follow-up inspection services approved by the Building Code Council. Approval of such buildings, structures or components shall be evidenced by labels or seals acceptable to the Council. All building units, structures or components bearing such labels or seals shall be deemed to meet the requirements of the State Building Code and this Article without further inspection or payment of fees, except as may be required for the enforcement of the Code relative to the connection of units and components and enforcement of local ordinances governing zoning, utility connections, and foundations permits. The Building Code Council shall adopt and may amend from time to time such reasonable and appropriate rules and regulations as it deems necessary for approval of agencies offering such testing, evaluation, inspection, and certification services and for overseeing their operations. Such rules and regulations shall include provisions to insure that such agencies are independent and free of any potential conflicts of interest which might influence their judgment in exercising their functions under the Code. Such rules and regulations may include a schedule of reasonable fees to cover administrative expenses in approving and overseeing operations of such agencies and may require the posting of a bond or other security satisfactory to the Council guaranteeing faithful performance of duties under the Code.

The Building Code Council may also adopt rules to insure that any person that is not licensed, in accordance with G.S. 87-1, and that undertakes to erect a North Carolina labeled manufactured modular building, meets the manufacturer's installation instructions and applicable provisions of the State Building Code. Any such person, before securing a permit to erect a modular building, shall provide the code enforcement

official proof that he has in force for each modular building to be erected a \$5,000 surety bond insuring compliance with the regulations of the State Building Code governing installation of modular buildings.

(b) Minimum Standards for Modular Homes. – To qualify for a label or seal under subsection (a) of this section, a single-family modular home must meet or exceed the following construction and design standards:

- (1) Roof pitch. – For homes with a single predominant roofline, the pitch of the roof shall be no less than five feet rise for every 12 feet of run.
- (2) Eave projection. – The eave projections of the roof shall be no less than 10 inches, which may not include a gutter around the perimeter of the home, unless the roof pitch is 8/12 or greater.
- (3) Exterior wall. – The minimum height of the exterior wall shall be at least seven feet six inches for the first story.
- (4) Siding and roofing materials. – The materials and texture for the exterior materials shall be compatible in composition, appearance, and durability to the exterior materials commonly used in standard residential construction.
- (5) Foundations. – The home shall be designed to require foundation supports around the perimeter. The supports may be in the form of piers, pier and curtain wall, piling foundations, a perimeter wall, or other approved perimeter supports."

**SECTION 18.** If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or application, and to this end the provisions of this act are severable.

**SECTION 19.** Sections 5 through 7 of this act become effective October 1, 2003. Sections 8 through 17 of this act become effective January 1, 2004, and Sections 13 through 16 of this act apply to sales of modular homes on and after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 17<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 5:34 p.m. on the 7<sup>th</sup> day of August, 2003.

## H.B. 1182

## Session Law 2003-401

### AN ACT TO EXPAND THE USURY EXEMPTION.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 24-9 reads as rewritten:

"§ 24-9. ~~Loans to certain entities organized for profit not subject to claim or defense of usury.~~ Loans exempt from rate and fee limitations.

~~Notwithstanding any other provision of this Chapter or any other provision of law, any foreign or domestic corporation, limited liability company, or partnership substantially engaged in commercial pursuits for pecuniary gain may agree to pay, and any lender or other person may charge and collect from the entity, interest, fees, and other charges at any rate which the entity may agree or be required to pay and as to any such transaction the claim or defense of usury by the entity and its successors or anyone else in its behalf is prohibited.~~



(a) As used in this section, the following definitions apply:

- (1) "Bank" means a bank, savings and loan association, savings bank, or credit union chartered under the laws of North Carolina or the United States. However, the term "bank" does not include any subsidiary or affiliate of a bank, savings and loan association, savings bank, or credit union chartered under the laws of North Carolina or the United States that is not itself a bank, savings and loan association, savings bank, or credit union chartered under the laws of North Carolina or the United States.
- (2) "Equity line of credit" means a loan, other than an exempt loan, that satisfies all of the following conditions:
  - a. The lender is a bank.
  - b. The loan is a revolving line of credit, open-end loan, revolving credit plan, or revolving credit card plan, and the loan is secured by a mortgage or deed of trust on real property.
  - c. At any time within a specified period not to exceed 30 years the borrower may request and the lender is obligated to provide credit advances up to the agreed aggregate credit limit. As used in this sub-subdivision, "lender is obligated" means that the lender is contractually bound to provide credit advances. However, the equity line of credit and the lender's obligation to make credit advances shall be subject to the provisions of section 226.5b(f) of Title 12 of the Code of Federal Regulations and the official commentaries and rulings issued pursuant thereto, as the same may be amended from time to time, without regard to whether that section of the Code of Federal Regulations would otherwise apply to the loan.
  - d. Any repayments of principal by the borrower within the specified time will reduce the amount of advances counted against the aggregate credit limit.
  - e. The initial loan amount is ten thousand dollars (\$10,000) or more. On January 1, 2008, and on January 1 every five years thereafter, the minimum initial loan amount sufficient to qualify a loan closed on or after that date as an equity line of credit under this section shall be increased by one thousand dollars (\$1,000). For example, a loan closed on or after January 1, 2008, but prior to January 1, 2013, shall not be considered an equity line of credit unless the initial loan amount is eleven thousand dollars (\$11,000) or more, and a loan closed on or after January 1, 2013, but prior to January 1, 2018, shall not be considered an equity line of credit unless the initial loan amount is twelve thousand dollars (\$12,000) or more.

An equity line of credit shall cease being an equity line of credit subject to the provisions of this section from and after the date the loan amount is reduced below the equity line of credit's initial loan amount unless (i) the loan amount was reduced for one or more of the reasons or pursuant to one or more of the methods specified in section 226.5b(f)(2) or section 226.5b(f)(3)(vi) of Title 12 of the Code of Federal Regulations and the official commentaries and rulings issued

pursuant thereto, as the same may be amended from time to time, without regard to whether that section of the Code of Federal Regulations would otherwise apply to the loan, or (ii) the loan amount was reduced at the request of the borrower because the borrower was engaged in the refinancing of a loan secured by a superior lien on the same real property and the reduction in the loan amount of the equity line of credit is no greater than the difference between the loan amount secured by the refinancing mortgage and the outstanding principle balance of the loan being refinanced.

- (3) "Exempt loan" means a loan in which:
- a. The loan amount is three hundred thousand dollars (\$300,000) or more; or
  - b. The borrower is a person other than a natural person; or
  - c. The loan is obtained by a natural person primarily for a purpose other than a personal, family, or household purpose. Whether a loan is obtained primarily for a purpose other than a personal, family, or household purpose shall be guided by the standards established by the federal Truth In Lending Act (Title 1 of Public Law 90-321; 82 Stat. 146; 15 U.S.C. § 160, et seq.) and all regulations and rulings issued pursuant to that Act, as the same may be amended from time to time.
- (4) "Loan" means an advance of money or an extension of credit that is made to or on behalf of a borrower, the principal amount of which the borrower has an obligation to pay the lender. The term includes revolving lines of credit, open-end loans, revolving credit plans, and revolving credit card plans in addition to closed-end loans.
- (5) "Loan amount" means the principal amount of a loan or, in the case of a revolving line of credit, open-end loan, revolving credit plan, or revolving credit card plan, the initial maximum credit limit.

(b) Notwithstanding any other provision of this Chapter or any other provision of State law, any borrower in an exempt loan transaction may agree to pay, and any lender, including a bank, may charge and collect from the borrower, interest at any rate and fees and other charges in any amount that the borrower agrees to pay. A claim or defense of usury is prohibited in an exempt loan transaction.

(c) The provisions of G.S. 24-1.2A, 24-11, and 24-11.1 shall not apply to equity lines of credit offered by banks. Except as provided in this subsection and notwithstanding any other provision of this Chapter or any other provision of State law, any bank may charge and collect from any borrower interest at any rate and fees and other charges in any amount that the borrower agrees to pay in connection with an equity line of credit. However, an equity line of credit made by a bank shall be subject to the following, to the extent otherwise applicable:

- (1) The provisions of G.S. 24-1.1E (relating to restrictions and limitations on high-cost home loans).
- (2) The provisions of G.S. 24-10.2 (relating to consumer protections in certain home loans).
- (3) Notwithstanding the limitation against prepayment penalties contained in G.S. 45-81(c), a bank may charge and collect prepayment fees or penalties following the borrower's voluntary exercise of a right or option to repay all or any portion of the outstanding balance of a

variable interest rate equity line of credit at a fixed interest rate over a specified period of time, subject to the following limitations:

- a. Prepayment fees or penalties may be charged only with respect to the prepayment of that portion of the outstanding balance the borrower voluntarily agrees to repay at a fixed interest rate over a specified time;
- b. No prepayment fees or penalties may be charged for prepayments made more than 30 months after the borrower voluntarily exercises the right or option to repay that portion of the outstanding balance of the equity line of credit at a fixed interest rate over a specified period of time; and
- c. The prepayment fees or penalties charged with respect to that portion of the outstanding balance to be repaid at a fixed rate over a specified period of time may not exceed, in the aggregate, more than two percent (2%) of the amount prepaid.

Otherwise, no prepayment fees or penalties may be charged or collected by the bank with respect to an equity line of credit.

(d) The provisions of G.S. 24-11 and G.S. 24-11.1 shall not apply to revolving credit card plans offered by banks. Notwithstanding any other provision of this Chapter or any other provision of State law, any bank may charge and collect from any borrower interest at any rate, as well as fees and other charges in any amount that the borrower agrees to pay in connection with a revolving credit card plan. This subsection (d) shall not apply to a revolving credit card plan that is secured by a mortgage or deed of trust on real property."

**SECTION 2.** G.S. 24-8(b) is repealed.

**SECTION 3.** G.S. 24-1.1E(a) reads as rewritten:

- "(a) Definitions. – The following definitions apply for the purposes of this section:
- (1) "Affiliate" means any company that controls, is controlled by, or is under common control with another company, as set forth in the Bank Holding Company Act of 1956 (12 U.S.C. § 1841 et seq.), as amended from time to time.
  - (2) "Annual percentage rate" means the annual percentage rate for the loan calculated according to the provisions of the federal Truth-in-Lending Act (15 U.S.C. § 1601, et seq.), and the regulations promulgated thereunder by the Federal Reserve Board (as said Act and regulations are amended from time to time).
  - (3) "Bona fide loan discount points" means loan discount points knowingly paid by the borrower for the purpose of reducing, and which in fact result in a bona fide reduction of, the interest rate or time-price differential applicable to the loan, provided the amount of the interest rate reduction purchased by the discount points is reasonably consistent with established industry norms and practices for secondary mortgage market transactions.
  - (4) A "high-cost home loan" means a loan other than ~~an open-end credit plan or~~ a reverse mortgage transaction in which:
    - a. The principal amount of the loan (or, in the case of an open-end credit plan, the borrower's initial maximum credit limit) does not exceed the lesser of (i) the conforming loan size limit for a

- single-family dwelling as established from time to time by Fannie Mae, or (ii) three hundred thousand dollars (\$300,000);
- b. The borrower is a natural person;
  - c. The debt is incurred by the borrower primarily for personal, family, or household purposes;
  - d. The loan is secured by either (i) a security interest in a manufactured home (as defined in G.S. 143-147(7)) which is or will be occupied by the borrower as the borrower's principal dwelling, or (ii) a mortgage or deed of trust on real estate upon which there is located or there is to be located a structure or structures designed principally for occupancy of from one to four families which is or will be occupied by the borrower as the borrower's principal dwelling; and
  - e. The terms of the loan exceed one or more of the thresholds as defined in subdivision (6) of this section.
- (5) "Points and fees" ~~means: is defined as provided in this subdivision.~~
- a. The term includes all of the following:
    1. All items required to be disclosed under sections 226.4(a) and 226.4(b) of Title 12 of the Code of Federal Regulations, as amended from time to time, except interest or the time-price ~~differential; differential.~~
    - 2.b. All charges for items listed under section 226.4(c)(7) of Title 12 of the Code of Federal Regulations, as amended from time to time, but only if the lender receives direct or indirect compensation in connection with the charge or the charge is paid to an affiliate of the lender; otherwise, the charges are not included within the meaning of the phrase "points and ~~fees"; fees".~~
    - 3.e. All compensation paid directly by the borrower to a mortgage broker not otherwise included in sub-subdivision ~~a.a.1.~~ or ~~b.a.2.~~ of this ~~subdivision; subdivision.~~
    - 4.d. The maximum prepayment fees and penalties which may be charged or collected under the terms of the loan ~~documents; and documents.~~
  - e.b. ~~"Points and fees" shall~~ Notwithstanding the remaining provisions of this subdivision, the term does not include (i) taxes, filing fees, recording and other charges and fees paid or to be paid to public officials for determining the existence of or for perfecting, releasing, or satisfying a security interest; and (ii) fees paid to a person other than a lender or an affiliate of the lender or to the mortgage broker or an affiliate of the mortgage broker for the following: fees for tax payment services; fees for flood certification; fees for pest infestation and flood determinations; appraisal fees; fees for inspections performed prior to closing; credit reports; surveys; attorneys' fees (if the borrower has the right to select the attorney from an approved list or otherwise); notary fees; escrow charges, so long as not otherwise included under sub-subdivision a. of this subdivision;

title insurance premiums; and fire insurance and flood insurance premiums, provided that the conditions in section 226.4(d)(2) of Title 12 of the Code of Federal Regulations are met.

- c. For open-end credit plans, the term includes those points and fees described in sub-subdivisions a.1. through a.3. of this subdivision that are charged at or before loan closing, plus (i) the minimum additional fees the borrower would be required to pay to draw down an amount equal to the total loan amount, and (ii) the maximum prepayment fees and penalties which may be charged or collected under the terms of the loan documents.
- (6) "Thresholds" means:
- a. Without regard to whether the loan transaction is or may be a "residential mortgage transaction" (as the term "residential mortgage transaction" is defined in section 226.2(a)(24) of Title 12 of the Code of Federal Regulations, as amended from time to time), the annual percentage rate of the loan at the time the loan is consummated is such that the loan is considered a "mortgage" under section 152 of the Home Ownership and Equity Protection Act of 1994 (Pub. Law 103-25, [15 U.S.C. § 1602(aa)]), as the same may be amended from time to time, and regulations adopted pursuant thereto by the Federal Reserve Board, including section 226.32 of Title 12 of the Code of Federal Regulations, as the same may be amended from time to time;
  - b. The total points and fees payable by the borrower at or before the loan closing exceed five percent (5%) of the total loan amount if the total loan amount is twenty thousand dollars (\$20,000) or more, or (ii) the lesser of eight percent (8%) of the total loan amount or one thousand dollars (\$1,000), if the total loan amount is less than twenty thousand dollars (\$20,000); provided, the following discount points and prepayment fees and penalties shall be excluded from the calculation of the total points and fees payable by the borrower:
    1. Up to and including two bona fide loan discount points payable by the borrower in connection with the loan transaction, but only if the interest rate from which the loan's interest rate will be discounted does not exceed by more than one percentage point (1%) the required net yield for a 90-day standard mandatory delivery commitment for a reasonably comparable loan from either Fannie Mae or the Federal Home Loan Mortgage Corporation, whichever is greater;
    2. Up to and including one bona fide loan discount point payable by the borrower in connection with the loan transaction, but only if the interest rate from which the loan's interest rate will be discounted does not exceed by more than two percentage points (2%) the required net yield for a 90-day standard mandatory delivery commitment for a reasonably comparable loan from

- either Fannie Mae or the Federal Home Loan Mortgage Corporation, whichever is greater;
3. ~~Prepayment~~ For a closed-end loan, prepayment fees and penalties which may be charged or collected under the terms of the loan documents which do not exceed one percent (1%) of the amount prepaid, provided the loan documents do not permit the lender to charge or collect any prepayment fees or penalties more than 30 months after the loan closing; or
  4. For an open-end credit plan, prepayment fees and penalties which may be charged or collected under the terms of the loan documents which do not exceed one percent (1%) of the amount prepaid, provided the loan documents do not permit the lender to charge or collect any prepayment fees or penalties more than (i) 30 months after the loan closing if the borrower has no right or option under the loan documents to repay all or any portion of the outstanding balance of the open-end credit plan at a fixed interest rate over a specified period of time or, (ii) if the borrower has a right or option under the loan documents to repay all or any portion of the outstanding balance of the open-end credit plan at a fixed interest rate over a specified period of time, 30 months after the date the borrower voluntarily exercises that right or option; or
- c. ~~The~~ If the loan is a closed-end loan, the loan documents permit the lender to charge or collect prepayment fees or penalties more than 30 months after the loan closing or which exceed, in the aggregate, more than two percent (2%) of the amount prepaid. If the loan is an open-end credit plan, the loan documents permit the lender to charge or collect prepayment fees or penalties (i) more than 30 months after the loan closing if the borrower has no right or option under the loan documents to repay all or any portion of the outstanding balance of the open-end credit plan at a fixed interest rate over a specified period of time or, (ii) if the borrower has a right or option under the loan documents to repay all or any portion of the outstanding balance of the open-end credit plan at a fixed interest rate over a specified period of time, more than 30 months after the date the borrower voluntarily exercises that right or option, or (iii) which exceed, in the aggregate, more than two percent (2%) of the amount prepaid.
- (7) ~~Total~~ For a closed-end loan, "total loan amount" means the same as the term "total loan amount" as used in section 226.32 of Title 12 of the Code of Federal Regulations, and the same shall be calculated in accordance with the Federal Reserve Board's Official Staff Commentary thereto. For an open-end credit plan, "total loan amount" means the borrower's initial maximum credit limit.

**SECTION 4.** G.S. 24-10.2(a) reads as rewritten:

"(a) For purposes of this section, the term "consumer home loan" ~~shall mean a loan~~ means a loan, including an open-end credit plan but excluding a reverse mortgage transaction, in which (i) the borrower is a natural person, (ii) the debt is incurred by the borrower primarily for personal, family, or household purposes, and (iii) the loan is secured by a mortgage or deed of trust upon real estate upon which there is located or there is to be located a structure or structures designed principally for occupancy of from one to four families which is or will be occupied by the borrower as the borrower's principal dwelling."

**SECTION 5.** This act becomes effective October 1, 2003, and applies to contracts entered into or renewed on or after that date.

In the General Assembly read three times and ratified this the 19<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 5:35 p.m. on the 7<sup>th</sup> day of August, 2003.

**S.B. 668****Session Law 2003-402**

AN ACT TO AUTHORIZE THE ALCOHOLIC BEVERAGE CONTROL COMMISSION TO ISSUE WINE SHIPPERS PERMITS TO ALLOW THE DIRECT SHIPMENT OF WINES TO RESIDENTS OF NORTH CAROLINA AND TO ESTABLISH A MECHANISM FOR COLLECTING THE TAXES DUE ON WINE SHIPPED TO NORTH CAROLINA.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 18B-902(d) reads as rewritten:

"(d) Fees. – An application for an ABC permit shall be accompanied by payment of the following application fee:

- (1) On-premises malt beverage permit – \$400.00.
- (2) Off-premises malt beverage permit – \$400.00.
- (3) On-premises unfortified wine permit – \$400.00.
- (4) Off-premises unfortified wine permit – \$400.00.
- (5) On-premises fortified wine permit – \$400.00.
- (6) Off-premises fortified wine permit – \$400.00.
- (7) Brown-bagging permit – \$400.00, unless the application is for a restaurant seating less than 50, in which case the fee shall be \$200.00.
- (8) Special occasion permit – \$400.00.
- (9) Limited special occasion permit – \$50.00.
- (10) Mixed beverages permit – \$1,000.
- (11) Culinary permit – \$200.00.
- (12) Unfortified winery permit – \$300.00.
- (13) Fortified winery permit – \$300.00.
- (14) Limited winery permit – \$300.00.
- (15) Brewery permit – \$300.00.
- (16) Distillery permit – \$300.00.
- (17) Fuel alcohol permit – \$100.00.
- (18) Wine importer permit – \$300.00.
- (19) Wine wholesaler permit – \$300.00.
- (20) Malt beverage importer permit – \$300.00.

- (21) Malt beverage wholesaler permit – \$300.00.
- (22) Bottler permit – \$300.00.
- (23) Salesman permit – \$100.00.
- (24) Vendor representative permit – \$50.00.
- (25) Nonresident malt beverage vendor permit – \$100.00.
- (26) Nonresident wine vendor permit – \$100.00.
- (27) Any special one-time permit under G.S. 18B-1002 – \$50.00.
- (28) Winery special event permit – \$200.00.
- (29) Mixed beverages catering permit – \$200.00.
- (30) Guest room cabinet permit – \$1,000.
- (31) Liquor importer/bottler permit – \$500.00.
- (32) Cider and vinegar manufacturer permit – \$200.00.
- (33) Brew on premises permit – \$400.00.
- (34) Wine producer permit – \$300.00.
- (35) Wine tasting permit – \$100.00.
- (36) Wine shipper permit – \$100.00."

**SECTION 2.** Chapter 18B of the General Statutes is amended by adding a new section to read:

**"§ 18B-1001.1. Authorization of wine shipper permit.**

(a) A winery holding a federal basic wine manufacturing permit located within or outside of the State may apply to the Commission for issuance of a wine shipper permit that shall authorize the shipment of brands of fortified and unfortified wines identified in the application. A wine shipper permittee may amend the brands of wines identified in the permit application but shall file any amendment with the Commission. Any winery that applies for a wine shipper permit shall notify in writing any wholesalers that have been authorized to distribute the winery's brands within the State that an application has been filed for a wine shipper permit. A wine shipper permittee may sell and ship not more than two cases of wine per month to any person in North Carolina to whom alcoholic beverages may be lawfully sold. All sales and shipments shall be for personal use only and not for resale. A case of wine shall mean any combination of packages containing not more than nine liters of wine.

(b) A wine shipper permittee that ships to addresses in the State more than 1,000 cases of wine in a calendar year must appoint at least one wholesaler to offer and sell the products of the wine shipper permittee under Article 12 of this Chapter if the wine shipper permittee is contacted by a wholesaler that wishes to sell the products of the wine shipper permittee. This provision shall not be construed to require the wine shipper permittee to appoint the wholesaler that originally contacted the wine shipper permittee. Wine purchased by a resident of the State at the premises of the wine shipper permittee and shipped to an address in the State under G.S. 18B-109(b) shall not be included in calculating the total of 1,000 cases per year.

(c) The direct shipment of wine by wine shipper permittees made pursuant to this section shall be by approved common carrier only. Each common carrier shall apply to the Commission for approval to provide common carriage of wines shipped by holders of permits issued pursuant to this section.

Each common carrier making deliveries pursuant to this section shall:

- (1) Require the recipient, upon delivery, to demonstrate that the recipient is at least 21 years of age by providing a form of identification specified in G.S. 18B-302(d)(1).



- (2) Require the recipient to sign an electronic or paper form or other acknowledgment of receipt as approved by the Commission.
- (3) Refuse delivery when the proposed recipient appears to be under the age of 21 years and refuses to present valid identification as required by subdivision (1) of this subsection.
- (4) Submit any other information that the Commission shall require.

All wine shipper permittees shipping wines pursuant to this section shall affix a notice in 26-point type or larger to the outside of each package of wine shipped within or to the State in a conspicuous location stating: 'CONTAINS ALCOHOLIC BEVERAGES; SIGNATURE OF PERSON AGED 21 YEARS OR OLDER REQUIRED FOR DELIVERY'. Any delivery of wines to a person under 21 years of age by a common carrier shall constitute a violation of G.S. 18B-302(a)(1) by the common carrier. The common carrier and the wine shipper permittee shall be liable only for their independent acts.

(d) A wine shipper permittee shall be subject to jurisdiction of the North Carolina courts by virtue of applying for a wine shipper permit and shall comply with any audit or other compliance requirements of the Commission and the Department of Revenue."

**SECTION 3.** Chapter 18B of the General Statutes is amended by adding a new section to read:

**"§ 18B-1001.2. Additional wine shipping requirements.**

(a) A wine shipper permittee shall:

- (1) Compile and submit to the Commission quarterly a summary indicating all wine products shipped, including brand and price of each product, date of each shipment, quantity of each shipment, and amount of excise and sales tax remitted to the Department of Revenue.
- (2) Register with the Department of Revenue as a wine shipper permittee and provide any additional information required by the Department.

(b) The Commission may adopt rules to carry out the provisions of this section and other related provisions governing the direct shipping of wine."

**SECTION 4.** G.S. 18B-109 reads as rewritten:

**"§ 18B-109. Direct shipment of alcoholic beverages into State.**

(a) General Prohibition. – ~~No~~ Except as provided in G.S. 18B-1001.1, no person shall have any alcoholic beverage mailed or shipped to him from outside this State unless he has the appropriate ABC permit.

(b) Armed Forces Installation. – No person shall have malt beverages or unfortified wine shipped directly from a point outside this State to an armed forces installation within this State if those alcoholic beverages are for resale on the installation.

(c) Wine Shipper Permittees. – It is unlawful for a wine shipper permittee to ship any wines except in compliance with this Chapter and Articles 2C and 5 of Chapter 105 of the General Statutes.

(d) On-Premises Purchases. – A person who purchases wine while visiting the premises of a winery, whether located within or outside the State, may authorize the winery to ship by common carrier, or may personally ship by common carrier, the purchased wine directly to addresses in the State in amounts that can be personally transported in accordance with the laws of this State and of the state in which the winery is located. A winery shipping wine pursuant to this subsection is not required to have a wine shipper permit."

**SECTION 5.** G.S. 18B-1001 reads as rewritten:**"§ 18B-1001. Kinds of ABC permits; places eligible.**

When the issuance of the permit is lawful in the jurisdiction in which the premises are located, the Commission may issue the following kinds of permits:

- ...
- (3) On-Premises Unfortified Wine Permit. – An on-premises unfortified wine permit authorizes the retail sale of unfortified wine for consumption on the premises, either alone or mixed with other beverages, and the retail sale of unfortified wine in the manufacturer's original container for consumption off the premises. It also authorizes the holder of the permit to ship unfortified wine in closed containers to individual purchasers inside and outside the State. Orders received by a winery by telephone, Internet, mail, facsimile, or other off-premises means of communication shall be shipped pursuant to a wine shipper permit and not pursuant to this subdivision. The permit may be issued for any of the following:
- a. Restaurants;
  - b. Hotels;
  - c. Eating establishments;
  - d. Private clubs;
  - e. Convention centers;
  - f. Cooking schools;
  - g. Community theatres;
  - h. Wineries.
- (4) Off-Premises Unfortified Wine Permit. – An off-premises unfortified wine permit authorizes the retail sale of unfortified wine in the manufacturer's original container for consumption off the premises and it authorizes the holder of the permit to ship unfortified wine in closed containers to individual purchasers inside and outside the State. The permit may be issued for retail businesses. The permit may also be issued for a winery for sale of its own unfortified wine. Orders received by a winery by telephone, Internet, mail, facsimile, or other off-premises means of communication shall be shipped pursuant to a wine shipper permit and not pursuant to this subdivision.
- (5) On-Premises Fortified Wine Permit. – An on-premises fortified wine permit authorizes the retail sale of fortified wine for consumption on the premises, either alone or mixed with other beverages, and the retail sale of fortified wine in the manufacturer's original container for consumption off the premises. It also authorizes the holder of the permit to ship fortified wine in closed containers to individual purchasers inside and outside the State. Orders received by a winery by telephone, Internet, mail, facsimile, or other off-premises means of communication shall be shipped pursuant to a wine shipper permit and not pursuant to this subdivision. The permit may be issued for any of the following:
- a. Restaurants;
  - b. Hotels;
  - c. Private clubs;

- d. Community theatres;
  - e. Wineries;
  - f. Convention centers.
- (6) Off-Premises Fortified Wine Permit. – An off-premises fortified wine permit authorizes the retail sale of fortified wine in the manufacturer's original container for consumption off the premises and it authorizes the holder of the permit to ship fortified wine in closed containers to individual purchasers inside and outside the State. The permit may be issued for food businesses. The permit may also be issued for a winery for sale of its own fortified wine. Orders received by a winery by telephone, Internet, mail, facsimile, or other off-premises means of communication shall be shipped pursuant to a wine shipper permit and not pursuant to this subdivision.

..."

**SECTION 6.** G.S. 18B-1101(3) reads as rewritten:

- "(3) Ship its wine in closed containers to individual purchasers inside and outside this ~~State~~; State in accordance with the provisions of G.S. 18B-1001, 18B-1001.1, and 18B-1001.2, and other applicable provisions of this Chapter;".

**SECTION 7.** G.S. 18B-1102(3) reads as rewritten:

- "(3) Ship its wine in closed containers to individual purchasers inside and outside this ~~State~~; State in accordance with the provisions of G.S. 18B-1001, 18B-1001.1, and 18B-1001.2, and other applicable provisions of this Chapter;".

**SECTION 8.** G.S. 105-113.68 is amended by adding a new subdivision to read:

- "(15) 'Wine shipper permittee' means a winery that holds a wine shipper permit issued by the ABC Commission under G.S. 18B-1001.1."

**SECTION 9.** G.S. 105-113.73 reads as rewritten:

"§ 105-113.73. Misdemeanor.

Except as otherwise expressly provided, violation of a provision of ~~the ABC law this Article~~ is a Class 1 misdemeanor."

**SECTION 10.** G.S. 105-113.83(b) reads as rewritten:

"(b) Beer and Wine. – The excise taxes on malt beverages and wine levied under G.S. 105-113.80(a) and (b), respectively, are payable to the Secretary by the resident wholesaler or importer who first handles the beverages in this State. The excise taxes on wine levied under G.S. 105-113.80(b) shipped directly to consumers pursuant to G.S. 18B-1001.1 must be paid by the wine shipper permittee. The taxes on malt beverages and wine shall be paid only once on the same beverages. The tax shall be paid on or before the 15th day of the month following the month in which the beverage is first sold or otherwise disposed of in this State by the ~~wholesaler or importer~~ wholesaler, importer, or wine shipper permittee. When excise taxes are paid on wine or malt beverages, the ~~wholesaler or importer~~ wholesaler, importer, or wine shipper permittee shall submit to the Secretary verified reports on forms provided by the Secretary detailing sales records for the month for which the taxes are paid. The report shall indicate the amount of excise tax due, contain the information required by the Secretary, and indicate separately any transactions to which the excise tax does not apply."

**SECTION 11.** G.S. 105-113.84 reads as rewritten:

"§ 105-113.84. **Report of resident brewery, resident winery, ~~or~~ nonresident ~~vendor~~, vendor, or wine shipper permittee.**

A resident brewery, resident winery, ~~and~~ nonresident ~~vendor~~ vendor, and wine shipper permittee must file a monthly report with the Secretary. The report must list the amount of beverages delivered to North Carolina ~~wholesalers and importers~~ wholesalers, importers, and purchasers under G.S. 18B-1001.1 during the month. The report is due by the 15th day of the month following the month covered by the report. The report must be filed on a form approved by the Secretary and must contain the information required by the Secretary."

**SECTION 12.** G.S. 105-164.3(9) reads as rewritten:

"(9) Engaged in business. – Maintaining, occupying or using permanently or temporarily, directly or indirectly, or through a subsidiary or agent, by whatever name called, any office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business, for the selling or delivering of tangible personal property for storage, use or consumption in this State, or permanently or temporarily, directly or through a subsidiary, having any representative, agent, salesman, canvasser or solicitor operating in this State in such selling or delivering, and the fact that any corporate retailer, agent or subsidiary engaged in business in this State may not be legally domesticated or qualified to do business in this State is immaterial. It also means maintaining in this State, either permanently or temporarily, directly or through a subsidiary, tangible personal property for the purpose of lease or rental. It also means making a mail order sale, as defined in this section, if one of the conditions listed in G.S. 105-164.8(b) is met. It also means the direct shipment of wine to a purchaser in this State by a wine shipper permittee under G.S. 18B-1001.1."

**SECTION 13.** G.S. 105-164.8(b) reads as rewritten:

"(b) Mail Order Sales. – A retailer who makes a mail order sale is engaged in business in this State and is subject to the tax levied under this Article if at least one of the following conditions is met:

- (1) The retailer is a corporation engaged in business under the laws of this State or a person domiciled in, a resident of, or a citizen of, this ~~State;~~ State.
- (2) The retailer maintains retail establishments or offices in this State, whether the mail order sales thus subject to taxation by this State result from or are related in any other way to the activities of such establishments or ~~offices;~~ offices.
- (3) The retailer has representatives in this State who solicit business or transact business on behalf of the retailer, whether the mail order sales thus subject to taxation by this State result from or are related in any other way to such solicitation or transaction of ~~business;~~ business.
- (4) Repealed by Session Laws 1991, c. 45, s. 16.
- (5) The retailer, by purposefully or systematically exploiting the market provided by this State by any media-assisted, media-facilitated, or media-solicited means, including direct mail advertising, distribution of catalogs, computer-assisted shopping, television, radio or other

- electronic media, telephone solicitation, magazine or newspaper advertisements, or other media, creates nexus with this ~~State~~State.
- (6) Through compact or reciprocity with another jurisdiction of the United States, that jurisdiction uses its taxing power and its jurisdiction over the retailer in support of this State's taxing ~~power~~power.
- (7) The retailer consents, expressly or by implication, to the imposition of the tax imposed by this Article. For purposes of this subdivision, evidence that a retailer engaged in the activity described in subdivision (5) shall be prima facie evidence that the retailer consents to the imposition of the tax imposed by this Article.
- (8) The retailer is a holder of a wine shipper permit issued by the ABC Commission pursuant to G.S. 18B-1001.1."

**SECTION 14.** This act becomes effective October 1, 2003.

In the General Assembly read three times and ratified this the 17<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 5:36 p.m. on the 7<sup>th</sup> day of August, 2003.

**S.B. 725**

**Session Law 2003-403**

AN ACT TO AMEND THE NORTH CAROLINA CONSTITUTION TO PERMIT CITIES AND COUNTIES TO INCUR OBLIGATIONS TO FINANCE THE PUBLIC PORTION OF CERTAIN ECONOMIC DEVELOPMENT PROJECTS.

Whereas, the State of North Carolina and local governments in North Carolina are and should be actively engaged in economic development efforts to attract and stimulate private sector job creation and capital investors in their areas; and

Whereas, over 48 other states and local governments in other states are authorized to utilize a wide variety of incentives, including, but not limited to, project development financing to attract private sector economic development; and

Whereas, other states and local governments in other states have been successful in attracting private sector job creation and capital investment to their areas through incentive packages which have included the provision of infrastructure improvements financed through the issuance of project development debt instruments; and

Whereas, economically distressed areas of North Carolina could utilize project development debt instruments to attract new industry to their areas; and

Whereas, project development financing could enable North Carolina to be more nationally or internationally competitive in attracting private sector job creation and capital investments, particularly in attracting major economic development efforts; Now, therefore,

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Article V of the North Carolina Constitution is amended by adding a new section to read:

**"Sec. 14. Project development financing.**

Notwithstanding Section 4 of this Article, the General Assembly may enact general laws authorizing any county, city, or town to define territorial areas in the county, city, or town and borrow money to be used to finance public improvements associated with

private development projects within the territorial areas, as provided in this section. The General Assembly shall set forth by statute the method for determining the size of the territorial area and the issuing unit. This method is conclusive. When a territorial area is defined pursuant to this section, the county shall determine the current assessed value of taxable real and personal property in the territorial area. Thereafter, property in the territorial area continues to be subject to taxation to the same extent and in like manner as property not in the territorial area, but the net proceeds of taxes levied on the excess, if any, of the assessed value of taxable real and personal property in the territorial area at the time the taxes are levied over the assessed value of taxable real and personal property in the territorial area at the time the territorial area was defined may be set aside. The instruments of indebtedness authorized by this section shall be secured by these set-aside proceeds. The General Assembly may authorize a county, city, or town issuing these instruments of indebtedness to pledge, as additional security, revenues available to the issuing unit from sources other than the issuing unit's exercise of its taxing power. As long as no revenues are pledged other than the set-aside proceeds authorized by this section and the revenues authorized in the preceding sentence, these instruments of indebtedness may be issued without approval by referendum. The county, city, or town may not pledge as security for these instruments of indebtedness any property tax revenues other than the set-aside proceeds authorized in this section, or in any other manner pledge its full faith and credit as security for these instruments of indebtedness unless a vote of the people is held as required by and in compliance with the requirements of Section 4 of this Article.

Notwithstanding the provisions of Section 2 of this Article, the General Assembly may enact general laws authorizing a county, city, or town that has defined a territorial area pursuant to this section to assess property within the territorial area at a minimum value if agreed to by the owner of the property, which agreed minimum value shall be binding on the current owner and any future owners as long as the defined territorial area is in effect."

**SECTION 2.** Article 6 of Chapter 159 of the General Statutes is reenacted and is rewritten to read:

"Article 6.

"Project Development Financing Act.

**"§ 159-101. Short title.**

This Article may be cited as the 'North Carolina Project Development Financing Act.'

**"§ 159-102. Unit of local government defined.**

For the purposes of this Article, the term 'unit of local government' means a county or a municipal corporation.

**"§ 159-103. Authorization of project development financing debt instruments; purposes.**

(a) Each unit of local government may issue project development financing debt instruments pursuant to this Article and use the proceeds for one or more of the purposes for which the unit may issue general obligation bonds pursuant to the following subdivisions of G.S. 159-48: (b)(1), (3), (7), (11), (12), (16), (17), (19), (21), (23), (24), or (25), (c)(4a) or (6), or (d)(3), (4), (5), (6), or (7). In addition, the proceeds may be used for any service or facility authorized by G.S. 160A-536 and provided in a municipal service district.

For the purpose of this Article, the term 'capital costs' as defined in G.S. 159-48(h) also includes (i) interest on the debt instruments being issued or on notes issued in anticipation of the instruments during construction and for a period not exceeding seven years after the estimated date of completion of construction and (ii) the establishment of debt service reserves and any other reserves reasonably required by the financing documents. The proceeds of the debt instruments may be used either in a development financing district established pursuant to G.S. 160A-515.1 or G.S. 158-7.3 or, if the use directly benefits private development forecast by the development financing plan for the district, outside the development financing district. The proceeds may be used only for projects that enable, facilitate, or benefit private development within the development financing district, the revenue increment of which is pledged as security for the debt instruments. This subsection does not prohibit the use of proceeds to defray the cost of providing water and sewer utilities to a private development in a project development financing district.

(b) Subject to agreement with the holders of its project development financing debt instruments and the limitation on duration of development financing districts set out in this Article, each unit of local government may issue additional project development financing debt instruments and may issue debt instruments to refund any outstanding project development financing debt instruments at any time before the final maturity of the instruments to be refunded. General obligation bonds issued to refund outstanding project development financing debt instruments shall be issued under the Local Government Bond Act, Article 4 of this Chapter. Revenue bonds issued to refund outstanding project development financing debt instruments shall be issued under the State and Local Government Revenue Bond Act, Article 5 of this Chapter.

Project development financing debt instruments may be issued partly for the purpose of refunding outstanding project development financing debt instruments and partly for any other purpose under this Article. Project development financing debt instruments issued to refund outstanding project development financing debt instruments shall be issued under this Article and not under Article 4 of this Chapter.

(c) If the private development project to be benefited by proposed project development financing debt instruments affects tax revenues in more than one unit of local government and more than one affected unit of local government wishes to provide assistance to the private development project by issuing project development financing debt instruments, then those units may enter into an interlocal agreement pursuant to Article 20 of Chapter 160A of the General Statutes for the purpose of issuing the instruments. The agreement may include a provision that a unit may pledge all or any part of the taxes received or to be received on the incremental valuation accruing to the development financing district to the repayment of instruments issued by another unit that is a party to the interlocal agreement.

**"§ 159-104. Application to Commission for approval of project development financing debt instrument issue; preliminary conference; acceptance of application.**

A unit of local government may not issue project development financing debt instruments under this Article unless the issue is approved by the Local Government Commission. The governing body of the issuing unit shall file with the secretary of the Commission an application for Commission approval of the issue. At the time of application, the governing body shall publish a public notice of the application in a newspaper of general circulation in the unit of local government. The application shall include any statements of facts and documents concerning the proposed debt

instruments, development financing district, and development financing plan, and the financial condition of the unit, required by the secretary. The Commission may prescribe the form of the application.

Before accepting the application, the secretary may require the governing body or its representatives to attend a preliminary conference in order to discuss informally the proposed issue, district, and plan and the timing of the steps to be taken in issuing the debt instruments. The development financing plan need not be adopted by the governing body at the time it files the application with the secretary. However, before the Commission may enter its order approving the debt instruments, the governing body must adopt the plan and make the findings described in G.S. 159-105(b)(1) and (5).

After an application in proper form and order has been filed, and after a preliminary conference if one is required, the secretary shall notify the unit in writing that the application has been filed and accepted for submission to the Commission. The secretary's statement is conclusive evidence that the unit has complied with this section.

**"§ 159-105. Approval of application by Commission.**

(a) In determining whether to approve a proposed project development financing debt instrument issue, the Commission may inquire into and consider any matters that it considers relevant to whether the issue should be approved, including:

- (1) Whether the projects to be financed from the proceeds of the project development financing debt instrument issue are necessary to secure significant new project development for a development financing district.
- (2) Whether the proposed projects are feasible. In making this determination, the Commission may consider any additional security such as credit enhancement, insurance, or guaranties.
- (3) The unit of local government's debt management procedures and policies.
- (4) Whether the unit is in default in any of its debt service obligations.
- (5) Whether the private development forecast in the development financing plan would likely occur without the public project or projects to be financed by the project development financing debt instruments.
- (6) Whether taxes on the incremental valuation accruing to the development financing district, together with any other revenues available under G.S. 159-110, will be sufficient to service the proposed project development financing debt instruments.
- (7) The ability of the Commission to market the proposed project development financing debt instruments at reasonable rates of interest.

(b) The Commission shall approve the application if, upon the information and evidence it receives, it finds all of the following:

- (1) The proposed project development financing debt instrument issue is necessary to secure significant new economic development for a development financing district.
- (2) The amount of the proposed project development financing debt is adequate and not excessive for the proposed purpose of the issue.
- (3) The proposed projects are feasible. In making this determination, the Commission may consider any additional security such as credit enhancement, insurance, or guaranties.



- (4) The unit of local government's debt management procedures and policies are good, or that reasonable assurances have been given that its debt will henceforth be managed in strict compliance with law.
- (5) The private development forecast in the development financing plan would not be likely to occur without the public projects to be financed by the project development financing debt instruments.
- (6) The proposed project development financing debt instruments can be marketed at reasonable interest cost to the issuing unit.
- (7) The issuing unit has, pursuant to G.S. 160A-515.1 or G.S. 158-7.3, adopted a development financing plan for the development financing district for which the instruments are to be issued.

**"§ 159-106. Order approving or denying the application.**

(a) After considering an application, the Commission shall enter its order either approving or denying the application. An order approving an issue is not an approval of the legality of the debt instruments in any respect.

(b) Unless the debt instruments are to be issued for a development financing district for which a project development financing debt instrument issue has already been approved, the day the Commission enters its order approving an application for project development financing debt instruments is also the effective date of the development financing district for which the instruments are to be issued.

(c) If the Commission enters an order denying the application, the proceedings under this Article are at an end.

**"§ 159-107. Determination of incremental valuation; use of taxes levied on incremental valuation; duration of the district.**

(a) Base Valuation in the Development Financing District. – After the Local Government Commission has entered its order approving a unit of local government's application for project development financing debt instruments, the unit shall immediately notify the tax assessor of the county in which the development financing district is located of the existence of the development financing district. Upon receiving this notice, the tax assessor shall determine the base valuation of the district, which is the assessed value of all taxable property located in the district on the January 1 immediately preceding the effective date of the district. If the unit or an agency of the unit acquired property within the district within one year before the effective date of the district, the tax assessor shall presume, subject to rebuttal, that the property was acquired in contemplation of the district, and the tax assessor shall include the value of the property so acquired in determining the base valuation of the district. The unit may rebut this presumption by showing that the property was acquired primarily for a purpose other than to reduce the incremental tax base. After determining the base valuation of the development financing district, the tax assessor shall certify the valuation to: (i) the issuing unit; (ii) the county in which the district is located if the issuing unit is not the county; and (iii) any special district, as defined in G.S. 159-7, within which the development financing district is located.

(b) Adjustments to the Base Valuation. – During the lifetime of the development financing district, the base valuation shall be adjusted as follows:

- (1) If the unit amends its development financing plan, pursuant to G.S. 160A-515.1 or G.S. 158-7.3, to remove property from the development financing district, on the succeeding January 1, that property shall be removed from the district and the base valuation reduced accordingly.

- (2) If the unit amends its development financing plan, pursuant to G.S. 160A-515.1 or G.S. 158-7.3, to expand the district, the new property shall be added to the district immediately. The base valuation of the district shall be increased by the assessed value of the taxable property situated in the added territory on the January 1 immediately preceding the effective date of the district.
- (3) If, at the time of revaluation pursuant to G.S. 105-286 of property in the county in which the district is located, it appears that, based on the schedule of values, standards, and rules approved by the board of county commissioners pursuant to G.S. 105-317, the property values of the district as they existed on the January 1 immediately preceding the effective date of the district would be increased because of the revaluation, then the base valuation shall be increased accordingly.

Each time the base valuation is adjusted, the tax assessor shall immediately certify the new base valuation to: (i) the issuing unit; (ii) the county if the issuing unit is not the county; and (iii) any special district, as defined in G.S. 159-7, within which the development financing district is located.

(c) Revenue Increment Fund. – When a unit of local government has established a development financing district, and the project development financing debt instruments for that district have been approved by the Commission, the unit shall establish a separate fund to account for the proceeds paid to the unit from taxes levied on the incremental valuation of the district. The unit shall also place in this fund any moneys received pursuant to an agreement entered into under G.S. 159-108.

(d) Levy of Property Taxes Within the District. – Each year the development financing district is in existence, the tax assessor shall determine the current assessed value of taxable property located in the district. The assessor shall also compute the difference between this current value and the base valuation of the district. If the current value exceeds the base value, the difference is the incremental valuation of the district. In each year the district is in existence, the county, and if the district is within a city or a special district as defined by G.S. 159-7, the city or the special district shall levy taxes against property in the district in the same manner as taxes are levied against other property in the county, city, or special district. The proceeds from ad valorem taxes levied on property in the development financing district shall be distributed as follows:

- (1) In any year in which there is no incremental valuation of the district, all the proceeds of the taxes shall be retained by the county, city, or special district, as if there were no development financing district in existence.
- (2) In any year in which there is an incremental valuation of the district, the amount of tax due from each taxpayer on property in the district shall be distributed as provided in this subdivision. The net proceeds of the following taxes shall be paid to the government levying the tax: (i) taxes separately stated and levied solely to service and repay debt secured by a pledge of the faith and credit of the unit; (ii) nonschool taxes levied pursuant to a vote of the people; (iii) taxes levied for a municipal or county service district; and (iv) taxes levied by a taxing unit in a development financing district established by a different taxing unit and for which there is no increment agreement between the two units. All remaining taxes on property in the district shall be multiplied by a fraction, the numerator of which is the base valuation

for the district and the denominator of which is the current valuation for the district. The amount shown as the product of this multiplication shall, when paid by the taxpayer, be retained by the county, city, or special district, as if there were no development financing district in existence. The net proceeds of the remaining amount shall, when paid by the taxpayer, be turned over to the finance officer of each issuing unit, who shall place this amount in the special revenue increment fund required by subsection (c) of this section. As used in this section, 'net proceeds' means gross proceeds less refunds, releases, and any collection fee paid by the levying government to the collecting government.

(e) Increment Agreements. – Effect of Annexation on District Established by a County. – If a city annexes land in a development financing district established by a county pursuant to G.S. 158-7.3, the proceeds of all taxes levied by the city on property within the district shall be paid to the city unless the city enters into an agreement with the county pursuant to this subsection. The city and the county may enter into an increment agreement under which the city agrees that city taxes on part or all of the incremental valuation in the district shall be paid into the revenue increment fund for the district. An increment agreement may be entered into when the district is established or at any time after the district is established. The increment agreement may extend for the duration of the district or for a shorter time agreed to by the parties.

(f) Use of Moneys in the Revenue Increment Fund. – If the development financing district includes property conveyed or leased by the unit of local government to a private party in consideration of increased tax revenue expected to be generated by improvements constructed on the property pursuant to G.S. 158-7.1, an amount equal to the tax revenue taken into account in arriving at the consideration, less the increased tax revenue realized since the construction of the improvement, shall be transferred from the Revenue Increment Fund to the county, city, or special district as if there were no development financing district in existence. Any money in excess of this amount in the Fund may be used for any of the following purposes, without priority other than priorities imposed by the order authorizing the project development financing debt instruments:

- (1) To finance capital expenditures (including the funding of capital reserves) by the issuing unit in the development financing district pursuant to the development financing plan.
- (2) To meet principal and interest requirements on project development financing debt instruments and debt instrument anticipation notes issued for the district.
- (3) To repay the appropriate fund of the issuing unit for any moneys actually expended on debt service on project development financing debt instruments pursuant to a pledge made pursuant to G.S. 159-111(b).
- (4) To establish and maintain debt service reserves for future principal and interest requirements on project development financing debt instruments and debt instrument anticipation notes issued for the district.
- (5) To meet any other requirements imposed by the order authorizing the project development financing debt instruments.

If in any year there is any money remaining in the Revenue Increment Fund after these purposes have been satisfied, it shall be paid to the general fund of the county and, if applicable, of the city and any special district as defined by G.S. 159-7, in proportion to their rates of ad valorem tax on taxable property located in the development financing district.

(g) Duration of District. – A development financing district shall terminate at the earlier of (i) the end of the thirtieth year after the effective date of the district or (ii) the date all project development financing debt instruments issued for the district have been fully retired or sufficient funds have been set aside, pursuant to the order authorizing the debt instruments, to meet all future principal and interest requirements on the instruments.

**"§ 159-108. Agreements with property owners.**

(a) Authorization. – A unit of local government that issues project development financing debt instruments may enter into agreements with the owners of real property in the development financing district for which the instruments were issued under which the owners agree to a minimum value at which their property will be assessed for taxation. Such an agreement may extend for the life of the development financing district or for a shorter period agreed to by the parties. The agreement may vary the agreed-upon minimum assessed value from year to year.

(b) Filing and Recording Agreement. – The unit shall file a copy of any agreement entered into pursuant to this section with the tax assessor for the county in which the development financing district is located. In addition, the unit shall cause the agreement to be recorded in the office of the register of deeds of that county, and the register of deeds shall index the agreement in the grantor's index under the name of the property owner. Once the agreement has been recorded in the office of the register of deeds, as required by this subsection, it is binding, according to its terms and for its duration, on any subsequent owner of the property.

(c) Minimum Assessment of Property. – An agreement entered into pursuant to this section establishes a minimum assessment of the real property subject to the agreement. If the county tax assessor determines that the real property has a true value less than the minimum established by the agreement, the assessor shall nevertheless assess the property at the minimum set out in the agreement. If the assessor, however, determines that the real property has a true value greater than the minimum established by the agreement, the assessor shall assess the property at the true value.

(d) Effect of Reappraisal. – If an agreement entered into pursuant to this section continues in effect after a reappraisal of property conducted pursuant to G.S. 105-286, the minimum assessment established in the agreement shall be adjusted as provided in this subsection. After the issuing unit of local government has adopted its budget ordinance and levied taxes for the fiscal year that begins next after the effective date of the reappraisal, it shall certify to the county tax assessor the total rate of ad valorem taxes levied by the unit and applicable to the property subject to the agreement. It shall also certify to the assessor the total rate of ad valorem taxes levied by the unit and applicable to the property in the immediately preceding fiscal year. The assessor shall determine the total amount of ad valorem taxes levied by the unit on the property in the immediately preceding fiscal year, based on the tax rate certified by the issuing unit. The assessor shall then determine a value of the property that would provide the same total amount of ad valorem taxes based on the tax rate certified for the fiscal year beginning next after the effective date of the reappraisal. The value so determined is the new minimum assessment for the property subject to the agreement.

(e) Agreement Effective Regardless of Improvements. – An agreement entered into pursuant to this section remains in effect according to its terms regardless of whether the improvements anticipated in the development financing plan are completed or whether those improvements continue to exist during the duration of the agreement. However, if any part of the property subject to the agreement is acquired by a public agency, the agreement is automatically modified by removing the acquired property from the agreement and reducing the minimum assessment accordingly.

**"§ 159-109. Special covenants.**

A project development financing debt instrument order or a trust agreement securing project development financing debt instruments may contain covenants regarding:

- (1) The pledge of all or any part of the taxes received or to be received on the incremental valuation in the development financing district during the life of the debt instruments.
- (2) Rates, fees, rentals, tolls, or other charges to be established, maintained, and collected, and the use and disposal of revenues, gifts, grants, and funds received or to be received.
- (3) The setting aside of debt service reserves and the regulation and disposition of these reserves.
- (4) The custody, collection, securing, investment, and payment of any moneys held for the payment of project development financing debt instruments.
- (5) Limitations or restrictions on the purposes to which the proceeds of sale of project development financing debt instruments may be applied.
- (6) Limitations or restrictions on the issuance of additional project development financing debt instruments or notes for the same development financing district, the terms upon which additional project development financing debt instruments or notes may be issued or secured, or the refunding of outstanding project development financing debt instruments or notes.
- (7) The acquisition and disposal of property for project development financing debt instrument projects.
- (8) Provision for insurance and for accounting reports, and the inspection and audit of accounting reports.
- (9) The continuing operation and maintenance of projects financed with the proceeds of the project development financing debt instruments.

**"§ 159-110. Security of project development financing debt instruments.**

Project development financing debt instruments are special obligations of the issuing unit. Moneys in the Revenue Increment Fund required by G.S. 159-107(c) are pledged to the payment of the instruments, in accordance with G.S. 159-107(f). Except as provided in G.S. 159-111, the unit may pledge the following additional sources of funds to the payment of the debt instruments, and no other sources: the proceeds from the sale of property in the development financing district; net revenues from any public facilities, other than portions of public utility systems, in the development financing district financed with the proceeds of the project development financing debt instruments; and, subject to G.S. 159-47, net revenues from any other public facilities, other than portions of public utility systems, in the development financing district constructed or improved pursuant to the development financing plan.

Except as provided in G.S. 159-111, the principal and interest on project development financing debt instruments do not constitute a legal or equitable pledge, charge, lien, or encumbrance upon any of the unit's property or upon any of its income, receipts, or revenues, except as may be provided pursuant to this section. Except as provided in G.S. 159-107 and G.S. 159-111, neither the credit nor the taxing power of the unit is pledged for the payment of the principal or interest of project development financing debt instruments, and no holder of project development financing debt instruments has the right to compel the exercise of the taxing power by the unit or the forfeiture of any of its property in connection with any default on the instruments. Unless the unit's taxing power has been pledged pursuant to G.S. 159-111, every project development financing debt instrument shall contain recitals sufficient to show the limited nature of the security for the instrument's payment and that it is not secured by the full faith and credit of the unit.

**"§ 159-111. Additional security for project development financing debt instruments.**

(a) In order to provide additional security for debt instruments issued pursuant to this Article, the issuing unit of local government may pledge its faith and credit for the payment of the principal of and interest on the debt instruments. Before such a pledge may be given, the unit shall follow the procedures and meet the requirements for approval of general obligation bonds under Article 4 of this Chapter. The unit shall also follow the procedures and meet the requirements of this Article. If debt instruments are issued pursuant to this Article and are also secured by a pledge of the issuing unit's faith and credit, the debt instruments are subject to G.S. 159-112 rather than G.S. 159-65.

(b) In order to provide additional security for debt instruments issued pursuant to this Article, and in lieu of pledging its faith and credit for that purpose pursuant to subsection (a) of this section, a unit of local government may agree to apply to the payment of the instruments any available sources of revenues of the unit, as long as the agreement to use the sources to make payment does not constitute a pledge of the unit's taxing power or of the unit's revenues derived from local sales taxes. In addition, to the extent the generation of the revenues is within the power of the unit, the unit may enter into covenants to take action in order to generate the revenues, as long as the covenant does not constitute a pledge of the unit's taxing power.

(c) No agreement or covenant may contain a nonsubstitution clause that restricts the right of the issuing unit of local government to replace or provide a substitute for any project financed pursuant to this subsection.

(d) The obligation of a unit of local government with respect to the sources of payment shall be specifically identified in the proceedings of the governing body authorizing the unit to issue the debt instruments. The sources of payment so specifically identified and then held or thereafter received by the unit or any fiduciary of the unit are immediately subject to the lien of the proceedings without any physical delivery of the sources or further act. The lien is valid and binding as against all parties having claims of any kind against a unit without regard to whether the parties have notice of the lien. The proceedings or any other document or action by which the lien on a source of payment is created need not be filed or recorded in any manner other than as provided in this Article.

**"§ 159-112. Limitations on details of debt instruments.**

In fixing the details of project development financing debt instruments, the governing body of the issuing unit of local government is subject to these restrictions and directions:

- (1) The maturity date shall not exceed the shorter of (i) the longest of the various maximum periods of usefulness for the projects to be financed with debt instrument proceeds, as prescribed by the Local Government Commission pursuant to G.S. 159-122, or (ii) the end of the thirtieth year after the effective date of the development financing district.
- (2) The first payment of principal shall be payable not more than seven years after the date of the debt instruments.
- (3) Any debt instrument may be made payable on demand or tender for purchase as provided in G.S. 159-79, and any debt instrument may be made subject to redemption prior to maturity, with or without premium, on such notice, at such times, and with such redemption provisions as may be stated. Interest on the debt instruments shall cease when the instruments have been validly called for redemption and provision has been made for the payment of the principal of the instruments, any redemption, any premium, and the interest on the instruments accrued to the date of redemption.
- (4) The debt instruments may bear interest at such rates payable semiannually or otherwise, may be in such denominations, and may be payable in such kind of money and in such place or places within or without this State as the issuing unit may determine.

**"§ 159-113. Annual report.**

In July of each year, each unit of local government with outstanding project development financing debt instruments shall make a report to any other unit, and to any special district as defined in G.S. 159-7, in which the development financing district for which the instruments were issued is located. This report shall set out the base valuation for the development financing district, the current valuation for the district, the amount of remaining project development financing debt for the district, and the unit's estimate of when the debt will be retired. The unit of local government may meet this requirement by reporting this information in its annual financial statements required by G.S. 159-34."

**SECTION 3.** G.S. 159-48(b) is amended by adding a new subdivision to read:

"(26) Undertaking public activities in or for the benefit of a development financing district pursuant to a development financing plan."

**SECTION 4.** G.S. 159-55(a) reads as rewritten:

"(a) After the bond order has been introduced and before the public hearing thereon, the finance officer (or some other officer designated by the governing board for this purpose) shall file with the clerk a statement showing the following:

- (1) The gross debt of the unit, excluding therefrom debt incurred or to be incurred in anticipation of the collection of taxes or other revenues or in anticipation of the sale of bonds other than funding and refunding bonds. The gross debt (after exclusions) is the sum of (i) outstanding debt evidenced by bonds, (ii) bonds authorized by orders introduced but not yet adopted, (iii) unissued bonds authorized by adopted orders, and (iv) outstanding debt not evidenced by bonds. However, for purposes of the sworn statement of debt and the debt limitation, revenue bonds and project development financing debt instruments (unless additionally secured by a pledge of the issuing unit's faith and

- credit) shall not be considered debt and ~~such bonds~~ shall not be included in gross debt nor deducted from gross debt.
- (2) The deductions to be made from gross debt in computing net debt. The following deductions are allowed:
- a. Funding and refunding bonds authorized by orders introduced but not yet adopted.
  - b. Funding and refunding bonds authorized but not yet issued.
  - c. The amount of money held in sinking funds or otherwise for the payment of any part of the principal of gross debt other than debt incurred for water, gas, electric light or power purposes, or sanitary sewer purposes (to the extent that the bonds are deductible under subsection (b) of this section), or two or more of these purposes.
  - d. The amount of bonded debt included in gross debt and incurred, or to be incurred, for water, gas, or electric light or power purposes, or any two or more of these purposes.
  - e. The amount of bonded debt included in the gross debt and incurred, or to be incurred, for sanitary sewer system purposes to the extent that the debt is made deductible by subsection (b) of this section.
  - f. The amount of uncollected special assessments theretofore levied for local improvements for which any part of the gross debt (that is not otherwise deducted) was or is to be incurred, to the extent that the assessments will be applied, when collected, to the payment of any part of the gross debt.
  - g. The amount, as estimated by the governing board of the issuing unit or an officer designated by the board for this purpose, of special assessments to be levied for local improvements for which any part of the gross debt (that is not otherwise deducted) was or is to be incurred, to the extent that the special assessments, when collected, will be applied to the payment of any part of the gross debt.
- (3) The net debt of the issuing unit, being the difference between the gross debt and deductions.
- (4) The assessed value of property subject to taxation by the issuing unit, as revealed by the tax records and certified to the issuing unit by the assessor. In calculating the assessed value, the incremental valuation of any development financing district located in the unit, as determined pursuant to G.S. 159-107, shall not be included.
- (5) The percentage that the net debt bears to the assessed value of property subject to taxation by the issuing unit."

**SECTION 5.** G.S. 159-79(a) reads as rewritten:

"(a) Notwithstanding any provisions of this Chapter to the contrary, including particularly, but without limitation, the provisions of G.S. 159-65, G.S. 159-112, G.S. 159-123 to G.S. 159-127, inclusive, G.S. 159-130, G.S. 159-138, G.S. 159-162, G.S. 159-164 and G.S. 159-172, a unit of local government, in fixing the details of general obligation bonds to be issued pursuant to this ~~Article or Article~~, general obligation notes to be issued pursuant to Article 9 of this Chapter, or project development financing debt



instruments or notes to be issued pursuant to Article 6 of this Chapter, may provide that such bonds or notesthe instruments or notes:

- (1) May be made payable from time to time on demand or tender for purchase by the owner provided a Credit Facility supports such bonds or notes, unless the Commission specifically determines that a Credit Facility is not required upon a finding and determination by the Commission that the proposed bonds or notes will satisfy the conditions set forth in G.S. 159-52;
- (2) May be additionally supported by a Credit Facility;
- (3) May be made subject to redemption prior to maturity, with or without premium, on such notice, at such time or times, at such price or prices and with such other redemption provisions as may be stated in the resolution fixing the details of such bonds or notes or with such variations as may be permitted in connection with a Par Formula provided in such resolution;
- (4) May bear interest at a rate or rates that may vary as permitted pursuant to a Par Formula and for such period or periods of time, all as may be provided in such resolution; and
- (5) May be made the subject of a remarketing agreement whereby an attempt is made to remarket the bonds to new purchases prior to their presentment for payment to the provider of the Credit Facility or to the issuing unit."

**SECTION 6.** G.S. 159-120 reads as rewritten:

**"§ 159-120. Definitions.**

As used in this Article, unless the context clearly requires another meaning, the words 'unit' or 'issuing unit' mean 'unit of local government' as defined in ~~G.S. 159-44~~, G.S. 159-44 or G.S. 159-102, 'municipality' as defined in G.S. 159-81, and the State of North Carolina, and the words 'governing body,' when used with respect to the State of North Carolina, mean the Council of State."

**SECTION 7.** G.S. 159-122(a) reads as rewritten:

"(a) Except as provided in this subsection, the last installment of each bond issue shall mature not later than the date of expiration of the period of usefulness of the capital project to be financed by the bond issue, computed from the date of the bonds. The last installment of a refunding bond issue issued pursuant to G.S. 159-48(a)(4) or (5) shall mature not later than either (i) the shortest period, but not more than 40 years, in which the debt to be refunded can be finally paid without making it unduly burdensome on the taxpayers of the issuing unit, as determined by the Commission, computed from the date of the bonds, or (ii) the end of the unexpired period of usefulness of the capital project financed by the debt to be refunded. The last installment of bonds issued pursuant to G.S. 159-48(a)(1), (2), (3), (6), or (7) shall mature not later than 10 years after the date of the bonds, as determined by the Commission. The last installment of bonds issued pursuant to G.S. 159-48(c)(5) shall mature not later than eight years after the date of the bonds, as determined by the Commission. The last installment of project development financing debt instruments shall mature on the earlier of 30 years after the effective date of the development financing district for which the instruments are issued or the longest of the various maximum periods of usefulness for the projects to be financed with debt instrument proceeds, as prescribed by the Commission pursuant to this section."

**SECTION 8.** G.S. 159-123(b) reads as rewritten:

- "(b) The following classes of bonds may be sold at private sale:
- (1) Bonds that a State or federal agency has previously agreed to purchase.
  - (2) Any bonds for which no legal bid is received within the time allowed for submission of bids.
  - (3) Revenue bonds, including any refunding bonds issued pursuant to G.S. 159-84, and special obligation bonds issued pursuant to Chapter 159I of the General Statutes.
  - (4) Refunding bonds issued pursuant to G.S. 159-78.
  - (5) Refunding bonds issued pursuant to G.S. 159-72 if the Local Government Commission determines that a private sale is in the best interest of the issuing unit.
  - (6) Bonds designated as qualified zone academy bonds pursuant to G.S. 115C-489.6, if the Local Government Commission determines that a private sale is in the best interest of the issuing unit.
  - (7) Project development financing debt instruments."

**SECTION 9.** G.S. 159-125(a) reads as rewritten:

"(a) Except for revenue ~~bonds,~~ bonds and project development financing debt instruments, no bid for less than ninety-eight percent (98%) of the face value of the bonds plus one hundred percent (100%) of accrued interest may be entertained.

Different rates of interest may be bid for bonds maturing in different years, but different rates of interest may not be bid for bonds maturing in the same year."

**SECTION 10.** G.S. 159-129 reads as rewritten:

"§ 159-129. **Obligations of units certified by Commission.**

Each bond or bond anticipation note that is represented by an instrument shall bear on its face or reverse a certificate signed by the secretary of the Commission or an assistant designated by ~~him~~ the secretary that the issuance of the bond or note has been approved under the provisions of ~~The Local Government Bond Act of Acts,~~ the Local Government Revenue Bond Act, ~~Act,~~ or the North Carolina Project Development Financing Act. ~~Such~~ This signature may be a manual or facsimile signature as the Commission may determine. Each bond or bond anticipation note that is not represented by an instrument shall be evidenced by a writing relating to such obligation, which writing shall identify such obligation or the issue of which it is part, bear ~~such certificate~~ this certificate, and be on file with the Commission. The certificate shall be conclusive evidence that the requirements of this Subchapter have been observed, and no bond or note without the Commission's certificate or with respect to which a writing bearing ~~such~~ this certificate has not been filed with the Commission shall be valid."

**SECTION 11.** G.S. 159-132 reads as rewritten:

"§ 159-132. **State Treasurer to deliver bonds and remit proceeds.**

When the bonds are executed, they shall be delivered to the State Treasurer who shall deliver them to the order of the purchaser and collect the purchase price or proceeds. The Treasurer shall then pay from the proceeds any notes issued in anticipation of the sale of the bonds, deduct from the proceeds the Commission's expense in connection with the issue, and remit the net proceeds to the official depository of the unit after assurance that the deposit will be adequately secured as required by law. The proceeds of funding or refunding bonds may be deposited at the place of payment of the indebtedness to be refunded or funded for use solely in the payment of such indebtedness. The proceeds of revenue bonds shall be remitted to the trustee or other depository specified in the trust agreement or resolution securing them.

Unless otherwise provided in the trust agreement or resolution securing the debt instruments, the proceeds of project development financing debt instruments shall be remitted in the manner provided by this section for the remission of the proceeds of general obligation bonds."

**SECTION 12.** G.S. 159-160 reads as rewritten:

**"§ 159-160. Definitions.**

As used in this Part, the words 'unit' or 'issuing unit' means 'unit of local government' as defined in G.S. ~~159-44, 159-44~~ or G.S. 159-102, 'municipality' as defined in G.S. 159-81, and the State of North Carolina."

**SECTION 13.** G.S. 159-163.1 is reenacted and is rewritten to read:

**"§ 159-163.1. Security of project development financing debt instrument anticipation notes.**

Notes issued in anticipation of the sale of project development financing debt instruments are special obligations of the issuing unit. Except as provided in G.S. 159-107 and G.S. 159-110, neither the credit nor the taxing power of the issuing unit may be pledged for the payment of notes issued in anticipation of the sale of project development financing debt instruments. No holder of a project development financing debt instrument anticipation note has the right to compel the exercise of the taxing power by the issuing unit or the forfeiture of any of its property in connection with any default on the note. Notes issued in anticipation of the sale of project development financing debt instruments may be secured by the same pledges, charges, liens, covenants, and agreements made to secure the project development financing debt instruments. In addition, the proceeds of each project development financing debt instrument issue are pledged for the payment of any notes issued in anticipation of the sale of the instruments, and these notes shall be retired from the proceeds of the sale as the first priority."

**SECTION 14.** G.S. 159-165(b) reads as rewritten:

"(b) When the bond anticipation notes are executed, they shall be delivered to the State Treasurer who shall deliver them to the order of the purchaser and collect the purchase price or proceeds. The Treasurer shall then deduct from the proceeds the Commission's expense in connection with the issue, and remit the net proceeds to the official depository of the unit after assurance that the deposit will be adequately secured as required by law. The net proceeds of revenue bond anticipation ~~notes or notes,~~ special obligation bond anticipation ~~notes or notes,~~ or project development financing debt instrument anticipation notes shall be remitted to the trustee or other depository specified in the trust agreement or resolution securing them. If the notes have been issued to renew outstanding notes, the Treasurer, in lieu of collecting the purchase price or proceeds, may provide for the exchange of the newly issued notes for the notes to be renewed."

**SECTION 15.** G.S. 159-176 reads as rewritten:

**"§ 159-176. Commission to aid defaulting units in developing refinancing plans.**

If a unit of local government or municipality (~~as defined in G.S. 159-44 or 159-81~~) (as defined in G.S. 159-44, 159-81, or 159-102) fails to pay any installment of principal or interest on its outstanding debt on or before the due date (whether the debt is evidenced by general obligation bonds, revenue bonds, project development financing debt instruments, bond anticipation notes, tax anticipation notes, or revenue anticipation notes) and remains in default for 90 days, the Commission may take such action as it deems advisable to investigate the unit's or municipality's fiscal affairs, consult with its governing board, and negotiate with its creditors in order to assist the unit or

municipality in working out a plan for refinancing, adjusting, or compromising the debt. When a plan is developed that the Commission finds to be fair and equitable and reasonably within the ability of the unit or municipality to meet, the Commission shall enter an order finding that it is fair, equitable, and within the ability of the unit or municipality to meet. The Commission shall then advise the governing board to take the necessary steps to implement it. If the governing board declines or refuses to do so within 90 days after receiving the Commission's advice, the Commission may enter an order directing the governing board to implement the plan. When this order is entered, the members of the governing board and all officers and employees of the unit or municipality shall be under an affirmative duty to do all things necessary to implement the plan. The Commission may apply to the appropriate division of the General Court of Justice for a court order to the governing board and other officers and employees of the unit or municipality to enforce the Commission's order."

**SECTION 16.** G.S. 160A-505(a) reads as rewritten:

"(a) In lieu of creating a redevelopment commission as authorized herein, the governing body of any municipality may, if it deems wise, either designate a housing authority created under the provisions of Chapter 157 of the General Statutes to exercise the powers, duties, and responsibilities of a redevelopment commission as prescribed herein, or undertake to exercise such powers, duties, and responsibilities itself. Any such designation shall be by passage of a resolution adopted in accordance with the procedure and pursuant to the findings specified in G.S. 160A-504(a) and (b). In the event a governing body designates itself to perform the powers, duties, and responsibilities of a redevelopment ~~commission~~, commission under this subsection, or exercises those powers, duties, and responsibilities pursuant to G.S. 153A-376 or G.S. 160A-456, then where any act or proceeding is required to be done, recommended, or approved both by a redevelopment commission and by the municipal governing body, then the performance, recommendation, or approval thereof once by the municipal governing body shall be sufficient to make such performance, recommendation, or approval valid and legal. In the event a municipal governing body designates itself to exercise the powers, duties, and responsibilities of a redevelopment commission, it may assign the administration of redevelopment policies, programs and plans to any existing or new department of the municipality."

**SECTION 17.** G.S. 160A-512(6) reads as rewritten:

"(6) Within its area of operation, to purchase, obtain options upon, acquire by gift, grant, bequest, devise, eminent domain or otherwise, any real or personal property or any interest therein, together with any improvements thereon, necessary or incidental to a redevelopment project; to hold, improve, clear or prepare for redevelopment any such property, and ~~notwithstanding the provisions of G.S. 160-59 but~~ subject to the provisions of G.S. 160A-514, and with the approval of the local governing body sell, exchange, transfer, assign, subdivide, retain for its own use, mortgage, pledge, hypothecate or otherwise encumber or dispose of any real or personal property or any interest therein, either as an entirety to a single 'redeveloper' or in parts to several redevelopers; provided that the commission finds that the sale or other transfer of any such part will not be prejudicial to the sale of other parts of the redevelopment area, nor in any other way prejudicial to the realization of the redevelopment plan approved by the governing body; to enter into ~~contracts~~ contracts, either before or after the real

property that is the subject of the contract is acquired by the Commission (although disposition of the property is still subject to G.S. 160A-514), with 'redevelopers' of property containing covenants, restrictions, and conditions regarding the use of such property for residential, commercial, industrial, recreational purposes or for public purposes in accordance with the redevelopment plan and such other covenants, restrictions and conditions as the commission may deem necessary to prevent a recurrence of blighted areas or to effectuate the purposes of this Article; to make any of the covenants, restrictions or conditions of the foregoing contracts covenants running with the land, and to provide appropriate remedies for any breach of any such covenants or conditions, including the right to terminate such contracts and any interest in the property created pursuant thereto; to borrow money and issue bonds therefor and provide security for bonds; to insure or provide for the insurance of any real or personal property or operations of the commission against any risks or hazards, including the power to pay premiums on any such insurance; and to enter into any contracts necessary to effectuate the purposes of this Article;"

**SECTION 18.** G.S. 160A-515.1 is reenacted and is rewritten to read:

**"§ 160A-515.1. Project development financing.**

(a) Authorization. – A city may finance a redevelopment project and any related public improvements with the proceeds of project development financing debt instruments, issued pursuant to Article 6 of Chapter 159 of the General Statutes, together with any other revenues that are available to the city. Before it receives the approval of the Local Government Commission for issuance of project development financing debt instruments, the city's governing body must define a development financing district and adopt a development financing plan for the district. The city may act jointly with a county to finance a project, define a development financing district, and adopt a development financing plan for the district.

(b) Development Financing District. – A development financing district shall comprise all or portions of one or more redevelopment areas defined pursuant to this Article. The total land area within development financing districts in a city, including development financing districts created pursuant to G.S. 158-7.3, may not exceed five percent (5%) of the total land area of the city.

(c) Development Financing Plan. – The development financing plan must be compatible with the redevelopment plan or plans for the redevelopment area or areas included within the district. The development financing plan must include all of the following:

- (1) A description of the boundaries of the development financing district.
- (2) A description of the proposed development of the district, both public and private.
- (3) The costs of the proposed public activities.
- (4) The sources and amounts of funds to pay for the proposed public activities.
- (5) The base valuation of the development financing district.
- (6) The projected incremental valuation of the development financing district.
- (7) The estimated duration of the development financing district.

- (8) A description of how the proposed development of the district, both public and private, will benefit the residents and business owners of the district in terms of jobs, affordable housing, or services.
- (9) A description of the appropriate ameliorative activities which will be undertaken if the proposed projects have a negative impact on residents or business owners of the district in terms of jobs, affordable housing, services, or displacement.
- (10) A requirement that the initial users of any new manufacturing facilities that will be located in the district and that are included in the plan will comply with the wage requirements in subsection (d) of this section.

(d) Wage Requirements. – A development financing plan shall include a requirement that the initial users of a new manufacturing facility to be located in the district and included in the plan must pay its employees an average weekly manufacturing wage that is either above the average manufacturing wage paid in the county in which the district will be located or not less than ten percent (10%) above the average weekly manufacturing wage paid in the State. The plan may include information on the wages to be paid by the initial users of a new manufacturing facility to its employees and any provisions necessary to implement the wage requirement. The issuing unit's governing body shall not adopt a plan until the Secretary of Commerce certifies that the Secretary has reviewed the average weekly manufacturing wage required by the plan to be paid to the employees of a new manufacturing facility and has found either (i) that the wages proposed by the initial users of a new manufacturing facility are in compliance with the amount required by this subsection or (ii) that the plan is exempt from the requirement of this subsection. The Secretary of Commerce may exempt a plan from the requirement of this subsection if the Secretary receives a resolution from the issuing unit's governing body requesting an exemption from the wage requirement and a letter from an appropriate State official, selected by the Secretary, finding that unemployment in the county in which the proposed district is to be located is especially severe. Upon the creation of the district, the unit of local government proposing the creation of the district shall take any lawful actions necessary to require compliance with the applicable wage requirement by the initial users of any new manufacturing facility included in the plan; however, failure to take such actions or obtain such compliance shall not affect the validity of any proceedings for the creation of the district, the existence of the district, or the validity of any debt instruments issued under Article 6 of Chapter 159 of the General Statutes. All findings and determinations made by the Secretary of Commerce under this subsection shall be binding and conclusive. For purposes of this section, the term 'manufacturing facility' means any facility that is used in the manufacturing or production of tangible personal property, including the processing resulting in a change in the condition of the property.

(e) County Review. – Before adopting a plan for a development financing district, the city council shall send notice of the plan, by first-class mail, to the board of county commissioners of the county or counties in which the development financing district is located. The person mailing the notice shall certify that fact, and the date thereof, to the city council, and the certificate is conclusive in the absence of fraud. Unless the board of county commissioners (or either board, if the district is in two counties) by resolution disapproves the proposed plan within 28 days after the date the notice is mailed, the city council may proceed to adopt the plan.

(f) Environmental Review. – Before adopting a plan for development financing districts, the city council shall submit the plan to the Secretary of Environment and

Natural Resources to review to determine if the construction and operation of any new manufacturing facility in the district will have a materially adverse effect on the environment and whether the company that will operate the facility has operated in substantial compliance with federal and State laws, regulations, and rules for the protection of the environment. If the Secretary finds that the new manufacturing facility will not have a materially adverse effect on the environment and that the company that will operate the facility has operated other facilities in compliance with environmental requirements, the Secretary shall approve the plan. In making the determination on environmental impact, the Secretary shall use the same criteria that apply to the determination under G.S. 159C-7 of whether an industrial project will have a materially adverse effect on the environment. The findings of the Secretary are conclusive and binding.

(g) Plan Adoption. – Before adopting a plan for a development financing district, the city council shall hold a public hearing on the plan. The council shall, no less than 30 days before the day of hearing, cause notice of the hearing to be mailed by first-class mail to all property owners and mailing addresses within the proposed development financing district. The council shall also, no more than 30 days and no less than 14 days before the day of the hearing, cause notice of the hearing to be published once in a newspaper of general circulation in the city. The notice shall state the time and place of the hearing, shall specify its purpose, and shall state that a copy of the proposed plan is available for public inspection in the office of the city clerk. At the public hearing, the council shall hear anyone who wishes to speak with respect to the proposed district and proposed plan. Unless a board of county commissioners or the Secretary of Environment and Natural Resources has disapproved the plan pursuant to subsection (e) or (f) of this section, the council may adopt the plan, with or without amendment, at any time after the public hearing. However, the plan and the district do not become effective until the city's application to issue project development financing debt instruments has been approved by the Local Government Commission, pursuant to Article 6 of Chapter 159 of the General Statutes.

(h) Plan Modification. – Subject to the limitations of this subsection, a city council may, after the effective date of the district, amend a development financing plan adopted for a development financing district. Before making any amendment, the city council shall follow the procedures and meet the requirements of subsections (d) through (g) of this section. The boundaries of the district may be enlarged only during the first five years after the effective date of the district and only if the area to be added has been or is about to be developed and the development is primarily attributable to development that has occurred within the district, as certified by the Local Government Commission. The boundaries of the district may be reduced at any time, but the city may agree with the holders of any project development financing debt instruments to restrict its power to reduce district boundaries.

(i) Plan Implementation. – In implementing a development financing plan, a city may act directly, through a redevelopment commission, through one or more contracts with private agencies, or by any combination of these."

**SECTION 19.** G.S. 158-7.3 is reenacted and rewritten to read:

**"§ 158-7.3. Development financing.**

(a) Definitions. – The following definitions apply in this section:

(1) Development project. – A capital project that includes capital expenditures by both private persons and one or more units of local government and that increases net employment opportunities for

residents of the development district or within a two-mile radius of the project, whichever is larger, and increases the local government tax base.

If the district in which such a project will occur is outside a city's central business district (as that district is defined by resolution of the city council, which definition is binding and conclusive), then, of the private development forecast for a development project by the development financing plan for the district in which the project will occur, a maximum of twenty percent (20%) of the plan's estimated square footage of floor space may be proposed for use in retail sales, hotels, banking, and financial services offered directly to consumers, and other commercial uses other than office space.

- (2) Publish. – Insertion in a newspaper qualified under G.S. 1-597 to publish legal advertisements in the county or counties in which the unit is located.
- (3) Unit or unit of local government. – A county, city, town, or incorporated village.

(b) Authorization. – A unit of local government may finance public improvements that are part of a development project with the proceeds of project development financing debt instruments, issued pursuant to Article 6 of Chapter 159 of the General Statutes, together with any other revenues that are available to the unit. Before it receives the approval of the Local Government Commission for issuance of project development financing debt instruments, the unit's governing body must define a development financing district and adopt a development financing plan for the district. The county may act jointly with a city to finance a project, define a development financing district that is within the city, and adopt a development financing plan for the district.

(c) Development Financing District. – A development financing district created pursuant to this section must be comprised of property that is one or more of the following:

- (1) Blighted, deteriorated, deteriorating, undeveloped, or inappropriately developed from the standpoint of sound community development and growth.
- (2) Appropriate for rehabilitation or conservation activities.
- (3) Appropriate for the economic development of the community.

The total land area within development financing districts in a unit, including development financing districts created pursuant to G.S. 160A-515.1, may not exceed five percent (5%) of the total land area of the unit. A county may not include in a district created pursuant to this section any land that, at the time the district is created, is inside a city, town, or incorporated village.

(d) Development Financing Plan. – The development financing plan must include all of the following:

- (1) A description of the boundaries of the development financing district.
- (2) A description of the proposed development of the district, both public and private.
- (3) The costs of the proposed public activities.
- (4) The sources and amounts of funds to pay for the proposed public activities.
- (5) The base valuation of the development financing district.



- (6) The projected incremental valuation of the development financing district.
- (7) The estimated duration of the development financing district.
- (8) A description of how the proposed development of the district, both public and private, will benefit the residents and business owners of the district in terms of jobs, affordable housing, or services.
- (9) A description of the appropriate ameliorative activities which will be undertaken if the proposed projects have a negative impact on residents or business owners of the district in terms of jobs, affordable housing, services, or displacement.
- (10) A requirement that the initial users of any new manufacturing facilities that will be located in the district and that are included in the plan will comply with the wage requirements referred to in subsection (e) of this section.

(e) Wage Requirements. – A development financing plan shall include a requirement that the initial users of a new manufacturing facility to be located in the district and included in the plan must pay its employees an average weekly manufacturing wage that is either above the average manufacturing wage paid in the county in which the district will be located or not less than ten percent (10%) above the average weekly manufacturing wage paid in the State. The plan may include information on the wages to be paid by the initial users of a new manufacturing facility to its employees and any provisions necessary to implement the wage requirement. The issuing unit's governing body shall not adopt a plan until the Secretary of Commerce certifies that the Secretary has reviewed the average weekly manufacturing wage required by the plan to be paid to the employees of a new manufacturing facility and has found either (i) that the wages proposed by the initial users of a new manufacturing facility are in compliance with the amount required by this subsection or (ii) that the plan is exempt from the requirement of this subsection. The Secretary of Commerce may exempt a plan from the requirement of this subsection if the Secretary receives a resolution from the issuing unit's governing body requesting an exemption from the wage requirement and a letter from an appropriate State official, selected by the Secretary, finding that unemployment in the county in which the proposed district is to be located is especially severe. Upon the creation of the district, the unit of local government proposing the creation of the district shall take any lawful actions necessary to require compliance with the applicable wage requirement by the initial users of any new manufacturing facility included in the plan; however, failure to take such actions or obtain such compliance shall not affect the validity of any proceedings for the creation of the district, the existence of the district, or the validity of any debt instruments issued under Article 6 of Chapter 159 of the General Statutes. All findings and determinations made by the Secretary of Commerce under this subsection shall be binding and conclusive. For purposes of this section, the term 'manufacturing facility' means any facility that is used in the manufacturing or production of tangible personal property, including the processing resulting in a change in the condition of the property.

(f) County Review. – If the unit creating a development financing district and adopting a development financing plan is a city, town, or incorporated village, before adopting the plan the unit's governing body shall send notice of the plan, by first-class mail, to the board of county commissioners of the county or counties in which the development financing district is located. The person mailing the notice shall certify that fact, and the date thereof, to the governing body, and the certificate is conclusive in

the absence of fraud. Unless the board of county commissioners (or either board, if the district is in two counties) by resolution disapproves the proposed plan within 28 days after the date the notice is mailed, the governing body may proceed to adopt the plan.

(g) Environmental Review. – Before adopting a plan for development financing districts, the issuing unit's governing body shall submit the plan to the Secretary of Environment and Natural Resources to review to determine if the construction and operation of any new manufacturing facility in the district will have a materially adverse effect on the environment and whether the company that will operate the facility has operated in substantial compliance with federal and State laws, regulations, and rules for the protection of the environment. If the Secretary finds that the new manufacturing facility will not have a materially adverse effect on the environment and that the company that will operate the facility has operated other facilities in compliance with environmental requirements, the Secretary shall approve the plan. In making the determination on environmental impact, the Secretary shall use the same criteria that apply to the determination under G.S. 159C-7 of whether an industrial project will have a materially adverse effect on the environment. The findings of the Secretary are conclusive and binding.

(h) Plan Adoption. – Before adopting a plan for a development financing district, the issuing unit's governing body shall hold a public hearing on the plan. The governing body shall, no more than 30 days and no less than 14 days before the day of the hearing, cause notice of the hearing to be published once and shall cause notice of the hearing to be mailed, by first-class mail, to all property owners and mailing addresses of the development financing district and to the governing body of any special district, as defined by G.S. 159-7, within which the development financing district is located. The notice shall state the time and place of the hearing, shall specify its purpose, and shall state that a copy of the proposed plan is available for public inspection in the office of the unit's clerk. At the public hearing, the governing body shall hear anyone who wishes to speak with respect to the proposed district and proposed plan. Unless a board of county commissioners or the Secretary of Environment and Natural Resources has disapproved the plan pursuant to subsection (f) or (g) of this section, the governing body may adopt the plan, with or without amendment, at any time after the public hearing. However, the plan and the district do not become effective until the unit's application to issue project development financing debt instruments has been approved by the Local Government Commission, pursuant to Article 6 of Chapter 159 of the General Statutes.

(i) Plan Modification. – Subject to the limitations of this subsection, a governing body may, after the effective date of the district, amend a development financing plan adopted for a development financing district. Before making any amendment, the governing body shall follow the procedures and meet the requirements of subsections (e) through (h) of this section. The boundaries of the district may be enlarged only during the first five years after the effective date of the district and only if the area to be added has been or is about to be developed and the development is primarily attributable to development that has occurred within the district, as certified by the Local Government Commission. The boundaries of the district may be reduced at any time, but the unit may agree with the holders of any project development financing debt instruments to restrict its power to reduce district boundaries.

(j) Plan Implementation. – In implementing a development financing plan, a unit may act directly, through one or more contracts with other public agencies, through one or more contracts with private agencies, or by any combination thereof."

**SECTION 20.** G.S. 105-284 is amended by adding a new subsection to read:

"(d) Property that is in a development financing district and that is subject to an agreement entered into pursuant to G.S. 159-108 shall be assessed at its true value or at the minimum value set out in the agreement, whichever is greater."

**SECTION 21.** G.S. 105-277.11 is reenacted and rewritten to read:

**"§ 105-277.11. Taxation of property subject to a development financing district agreement.**

Property that is in a development financing district established pursuant to G.S. 160A-515.1 or G.S. 158-7.3 and that is subject to an agreement entered into pursuant to G.S. 159-108, shall, pursuant to Article V, Section 14 of the North Carolina Constitution, be assessed for taxation at the greater of its true value or the minimum value established in the agreement."

**SECTION 22.** Liberal Construction. This act, being necessary for the prosperity and welfare of the State and its inhabitants, shall be liberally construed to effect these purposes.

**SECTION 23.** Severability. If any clause or other portion of this act is held invalid, that decision shall not affect the validity of the remaining portions of this act, which are severable.

**SECTION 24.** The amendment set out in Section 1 of this act shall be submitted to the qualified voters of the State at the statewide general election in November 2004, which election shall be conducted under the laws then governing elections in the State. Ballots, voting systems, or both may be used in accordance with Chapter 163 of the General Statutes. The question to be used in the voting systems and ballots shall be:

"[ ] FOR [ ] AGAINST

Constitutional amendment to promote local economic and community development projects by (i) permitting the General Assembly to enact general laws giving counties, cities, and towns the power to finance public improvements associated with qualified private economic and community improvements within development districts, as long as the financing is secured by the additional tax revenues resulting from the enhanced property value within the development district and is not secured by a pledge of the local government's faith and credit or general taxing authority, which financing is not subject to a referendum; and (ii) permitting the owners of property in the development district to agree to a minimum tax value for their property, which is binding on future owners as long as the development district is in existence."

**SECTION 25.** If a majority of votes cast on the question are in favor of the amendment set out in Section 1 of this act, the State Board of Elections shall certify the amendment to the Secretary of State. The amendment set out in Section 1 of this act and the amendments set out in Sections 2 through 21 of this act become effective upon this certification. The Secretary of State shall enroll the amendment so certified among the permanent records of that office. If a majority of votes cast on the question are not in favor of the amendment set out in Section 1 of this act, that amendment and the amendments set out in Sections 2 through 21 of this act do not go into effect.

**SECTION 26.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 19<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 5:37 p.m. on the 7<sup>th</sup> day of August, 2003.

AN ACT REGARDING THE SALE OF STATE-OWNED PROPERTY IN THE  
BLOUNT STREET HISTORIC DISTRICT.

Whereas, the North Carolina Capital Planning Commission adopted a master plan for the State government complex in Raleigh; and

Whereas, recommendations in the master plan for the Blount Street Historic District include: (i) the introduction of residential land uses, (ii) infill along Blount Street with structures equal to the quality of existing structures, (iii) the systematic removal of most State offices from the existing structures, and (iv) the adaptive reuse for private residences of structures previously used for State office space; and

Whereas, implementation of the master plan will result in (i) the moving of State offices to more efficient structures, (ii) the preservation of historical structures and the historic district, and (iii) the revitalization of the area consistent with the principles of smart growth development; and

Whereas, the adaptation of property in this area to mixed residential and business use should be accomplished by the private sector and not by State government; Now, therefore,

*The General Assembly of North Carolina enacts:*

**SECTION 1.(a)** Modification of the Capital Area Master Plan to provide for the sale of certain properties. – Prior to May 1, 2004, the Department of Administration and the Capital Planning Commission shall modify the Capital Area Master Plan for State Government to provide for the sale to private or public entities of State-owned properties within and adjacent to the Blount Street Historic District, an area bordered by North Person Street, Jones Street, North Wilmington Street, and Peace Street, except for the Governor's Mansion, the Archives and History Building, the State Records Center, the Bath Building, and the Leonidas Lafayette Polk House, which shall be excluded from the sales provisions hereof. The Department of Administration is authorized to sell any such property pursuant to Chapter 146 of the General Statutes, and such sale shall take place at the time the Department determines that a property is no longer needed for State purposes and that it is in the best interest of the State to sell that property.

**SECTION 1.(b)** Preservation or conservation agreements required on all sales. – The sale of property in this area shall be subject to preservation or conservation agreements as defined in G.S. 121-35 that ensure that the use of the property is consistent with the historic and architectural character of the district.

**SECTION 1.(c)** Procedures for the sale of properties. – Due to (i) the significant architectural, archaeological, artistic, cultural, or historical associations of these properties, (ii) the properties' relationship to other property that is significant for architectural, archaeological, artistic, cultural, or historical associations, and (iii) the requirement that a preservation agreement or conservation agreement as defined in G.S. 121-35 is placed in the deed conveying said property from the State, these properties shall be sold by private negotiation and sale, and all such sales shall be approved by the State Property Office.

Property sold pursuant to this act shall be sold in accordance with the procedures set forth in G.S. 146-27 through G.S. 146-29.

**SECTION 1.(d)** Funds to implement the sales process. – Of the funds available to the Department of Administration, the Department may use up to three hundred thousand dollars (\$300,000) to implement the provisions of this act.

**SECTION 2.** Use of the net proceeds of sales. – The net proceeds of any sale made in accordance with this act shall be handled in the following priority order:

- (1) In accordance with the provisions of any trust or other instrument of title under which title to the real property was acquired by the State. The term "net proceeds" means the gross amount received from the sale of any such property less any expenses incurred incident to that sale, subject to regulations adopted by the Governor and approved by the Council of State.
- (2) To reimburse the Department of Administration for any funds expended pursuant to Section 1(d) of this act.
- (3) The next five million dollars (\$5,000,000) of the funds shall be placed in a special trust fund in the Department of State Treasurer, hereinafter to be held in trust and used solely for the upkeep, repair, and maintenance of the Executive Mansion. The State Treasurer, as custodian of the special trust fund, shall authorize the use of interest earned by the special trust fund only for such purposes as approved by the Executive Mansion Fine Arts Committee. The duties of the Committee under this section are in addition to those provided by G.S. 143B-79. The Executive Mansion Fine Arts Committee shall report to the Joint Legislative Commission on Governmental Operations any expenditures within 30 days of approving them. The principal may not be used for any purpose.
- (4) The remainder not needed under subdivisions (1) through (3) of this section shall be placed in the General Fund.

**SECTION 3.(a)** Establishment of the Blount Street Historic District Oversight Committee. – The Blount Street Historic District Oversight Committee is established in the Office of the Governor.

**SECTION 3.(b)** Membership of the Committee. – The Committee shall consist of eight members appointed as follows:

- (1) The State Historic Preservation Officer, or a person designated by that officer, ex officio.
- (2) Two members appointed by the Governor, one of whom shall be a person with experience in urban planning.
- (3) Two members appointed by the President Pro Tempore of the Senate, one of whom shall be a person with experience in historic preservation.
- (4) Two members appointed by the Speaker of the House of Representatives, one of whom shall be a resident of Historic Oakwood in Raleigh.
- (5) One member, appointed by the Mayor of the City of Raleigh.

In making initial appointments to the Committee, the appointing officers shall designate one appointee to serve for a term of four years ending July 1, 2007, and one appointee to serve a term of six years ending July 1, 2009. Subsequent terms shall be for four years. A member shall continue to serve until the member's successor is appointed. A vacancy resulting from the resignation of a member or otherwise shall be filled in the

same manner in which the original appointment was made, and the term shall be for the balance of the unexpired term.

In making all appointments, the appointing officer shall consider the unique historic and architectural nature of the area and shall appoint people who are dedicated to preserving it.

The Governor may remove any member of the Committee from office in accordance with the provisions of G.S. 143B-16.

A majority of the Committee shall constitute a quorum for the transaction of business. The Governor shall appoint the chair and vice-chair from among the Committee's membership. The State Historic Preservation Officer shall serve as secretary of the Committee. The members of the Committee shall serve without pay and without expense allowance.

**SECTION 3.(c)** Purpose of the Committee. – The purpose of the Committee shall be to monitor the implementation of this act.

**SECTION 4.** Implementation plan for this act. – Prior to September 1, 2004, the Department of Administration shall submit to the Blount Street Historic District Oversight Committee a plan for the implementation of this act and a schedule for implementation of the plan. The plan may provide for the sale of property in separate parcels or in its entirety.

**SECTION 5.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 20<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 5:38 p.m. on the 7<sup>th</sup> day of August, 2003.

## H.B. 1241

## Session Law 2003-405

### AN ACT TO DELAY THE REINSTATEMENT OF THE TWENTY PERCENT UNEMPLOYMENT INSURANCE SURTAX.

**SECTION 1.** G.S. 96-9(b)(3)j. reads as rewritten:

"j. A tax is imposed upon contributions at the rate of twenty percent (20%) of the amount of contributions due. The tax is due and payable at the time and in the same manner as the contributions. The tax does not apply in a calendar year if, as of August 1 of the preceding year, either of the following conditions was met: (i) the amount in the Reserve Fund equals or exceeds one hundred sixty-three million three hundred forty-nine thousand dollars (\$163,349,000), which is one percent (1%) of taxable wages for calendar year 1984.1984, or (ii) the balance in the Unemployment Insurance Fund established by G.S. 96-6(a) is five hundred million dollars (\$500,000,000) or less. The collection of this tax, the assessment of interest and penalties on unpaid taxes, the filing of judgment liens, and the enforcement of the liens for unpaid taxes is governed by the provisions of G.S. 96-10 where applicable. Taxes collected under this subpart shall be credited to the Employment Security Commission Reserve Fund, and refunds of the taxes shall be paid from the same Fund. Any

interest or penalties collected on unpaid taxes shall be credited to the Special Employment Security Administration Fund, and any interest or penalties refunded on taxes imposed by this subpart shall be paid from the same Fund."

**SECTION 2.** This act is effective when it becomes law. This act is repealed for taxes imposed in the 2005 and subsequent calendar years.

In the General Assembly read three times and ratified this the 19<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 11:20 a.m. on the 12<sup>th</sup> day of August, 2003.

**S.B. 226**

**Session Law 2003-406**

**AN ACT TO PROHIBIT THE ADMINISTRATION OF MEDICATION TO A CHILD IN A LICENSED OR UNLICENSED CHILD CARE FACILITY WITHOUT PROPER AUTHORIZATION FROM THE CHILD'S PARENT OR GUARDIAN.**

*The General Assembly of North Carolina enacts:*

**SECTION 1.** This act shall be known as "Kaitlyn's Law".

**SECTION 2.** Article 7 of Chapter 110 of the General Statutes is amended by adding a new section to read:

**"§ 110-102.1A. Unauthorized administration of medication.**

(a) It is unlawful for an employee, owner, household member, volunteer, or operator of a licensed or unlicensed child care facility as defined in G.S. 110-86, including child care facilities operated by public schools and nonpublic schools as defined in G.S. 110-86(2)(f), to willfully administer, without written authorization, prescription or over-the-counter medication to a child attending the child care facility. For the purposes of this section, written authorization shall include the child's name, date or dates for which the authorization is applicable, dosage instructions, and signature of the child's parent or guardian. For the purposes of this section, a child care facility operated by a public school does not include kindergarten through twelfth grade classes.

(b) In the event of an emergency medical condition and the child's parent or guardian is unavailable, it shall not be unlawful to administer medication to a child attending the child care facility without written authorization as required under subsection (a) of this section if the medication is administered with the authorization and in accordance with instructions from a bona fide medical care provider. For purposes of this subsection, the following definitions apply:

(1) A bona fide medical care provider means an individual who is licensed, certified, or otherwise authorized to prescribe the medication.

(2) An emergency medical condition means circumstances where a prudent layperson acting reasonably would have believed that an emergency medical condition existed.

(c) A violation of this section that results in serious injury to the child shall be punished as a Class F felony.

(d) Any other violation of this section where medication is administered willfully shall be punished as a Class A1 misdemeanor."

**SECTION 3.** This act becomes effective December 1, 2003, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 18<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 10:31 a.m. on the 13<sup>th</sup> day of August, 2003.

**H.B. 152****Session Law 2003-407**

AN ACT TO REQUIRE CHILD CARE FACILITIES TO DEVELOP AND MAINTAIN A SAFE SLEEP POLICY THAT INCLUDES REQUIRING CAREGIVERS TO PLACE CHILDREN ON THEIR BACK TO SLEEP TO REDUCE THE RISK OF SUDDEN INFANT DEATH SYNDROME (SIDS), AND TO REQUIRE CERTAIN AGENCIES AND THE MEDICAL COMMUNITY TO COOPERATE IN INVESTIGATING REPORTS OF CHILD ABUSE AND NEGLECT IN CHILD CARE FACILITIES.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 110-91 is amended by adding a new subdivision to read:

"§ 110-91. **Mandatory standards for a license.**

All child care facilities shall comply with all State laws and federal laws and local ordinances that pertain to child health, safety, and welfare. Except as otherwise provided in this Article, the standards in this section shall be complied with by all child care facilities. However, none of the standards in this section apply to the school-age children of the operator of a child care facility but do apply to the preschool-age children of the operator. Children 13 years of age or older may receive child care on a voluntary basis provided all applicable required standards are met. The standards in this section, along with any other applicable State laws and federal laws or local ordinances, shall be the required standards for the issuance of a license by the Secretary under the policies and procedures of the Commission except that the Commission may, in its discretion, adopt less stringent standards for the licensing of facilities which provide care on a temporary, part-time, drop-in, seasonal, after-school or other than a full-time basis.

- ...
- (15) Safe Sleep Policy. – Operators of child care facilities that care for children ages 12 months or younger shall develop and maintain a written safe sleep policy, in accordance with rules adopted by the Commission. The safe sleep policy shall address maintaining a safe sleep environment and shall include the following requirements:
- a. A caregiver in a child care facility shall place a child age 12 months or younger on the child's back for sleeping, unless: (i) for a child age 6 months or younger, the operator of the child care facility obtains a written waiver of this requirement from a health care provider as defined in G.S. 58-50-61(a)(8); or (ii) for a child older than 6 months, the operator of the child care facility obtains a written waiver of this requirement from a health care provider as defined in G.S. 58-50-61(a)(8), a parent, or a legal guardian.



- b. The operator of the child care facility shall discuss the safe sleep policy with the child's parent or guardian before the child is enrolled in the child care facility. The child's parent or guardian shall sign a statement attesting that the parent or guardian received a copy of the safe sleep policy and that the policy was discussed with the parent or guardian before the child's enrollment.
- c. Any caregiver responsible for the care of children ages 12 months or younger shall receive training in safe sleep practices."

**SECTION 2.** G.S. 110-105.2(a) reads as rewritten:

"(a) For purposes of this Article, child abuse and neglect, as defined in G.S. 7B-101 and in G.S. 14-318.2 and G.S. 14-318.4, occurring in child care facilities, are violations of the licensure standards and of the licensure law. The Department, local departments of social services, and local law enforcement personnel shall cooperate with the medical community to ensure that reports of child abuse or neglect in child care facilities are properly investigated."

**SECTION 3.** This act becomes effective December 1, 2003.

In the General Assembly read three times and ratified this the 10<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 10:35 a.m. on the 13<sup>th</sup> day of August, 2003.

**S.B. 993**

**Session Law 2003-408**

AN ACT TO ENHANCE THE ABILITY OF THE STATE BOARD OF EDUCATION TO SAFEGUARD SCHOOLCHILDREN THROUGH AUTOMATIC REVOCATION OF TEACHER CERTIFICATES UPON CONVICTION OF CERTAIN CRIMES, AND THE USE OF INVESTIGATIVE SERVICES AS NEEDED.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 115C-296(d) reads as rewritten:

"(d) The State Board shall adopt rules to establish the reasons and procedures for the suspension and revocation of certificates.

- (1) The State Board shall revoke the certificate of a teacher or school administrator if the State Board receives notification from a local board or the Secretary of Health and Human Services that a teacher or school administrator has received an unsatisfactory or below standard rating under G.S. 115C-333(d).
- (2) The State Board shall automatically revoke the certificate of a teacher or school administrator without the right to a hearing upon receiving verification of the identity of the teacher or school administrator together with a certified copy of a criminal record showing that the teacher or school administrator has entered a plea of guilty or nolo contendere to or has been finally convicted of any of the following crimes: Murder in the first or second degree, G.S. 14-17; Conspiracy or solicitation to commit murder, G.S. 14-18.1; Rape or sexual offense as defined in Article 7A of Chapter 14 of the General Statutes.

Felonious assault with deadly weapon with intent to kill or inflicting serious injury, G.S. 14-32; Kidnapping, G.S. 14-39; Abduction of children, G.S. 14-41; Crime against nature, G.S. 14-177; Incest, G.S. 14-178 or G.S. 14-179; Employing or permitting minor to assist in offense against public morality and decency, G.S. 14-190.6; Dissemination to minors under the age of 16 years, G.S. 14-190.7; Dissemination to minors under the age of 13 years, G.S. 14-190.8; Displaying material harmful to minors, G.S. 14-190.14; Disseminating harmful material to minors, G.S. 14-190.15; First degree sexual exploitation of a minor, G.S. 14-190.16; Second degree sexual exploitation of a minor, G.S. 14-190.17; Third degree sexual exploitation of a minor, G.S. 14-190.17A; Promoting prostitution of a minor, G.S. 14-190.18; Participating in prostitution of a minor, G.S. 14-190.19; Taking indecent liberties with children, G.S. 14-202.1; Solicitation of child by computer to commit an unlawful sex act, G.S. 14-202.3; Taking indecent liberties with a student, G.S. 14-202.4; Prostitution, G.S. 14-204; and child abuse under G.S. 14-318.4. The Board shall mail notice of its intent to act pursuant to this subdivision by certified mail, return receipt requested, directed to the teacher or school administrator at their last known address. The notice shall inform the teacher or school administrator that it will revoke the person's certificate unless the teacher or school administrator notifies the Board in writing within 10 days after receipt of the notice that the defendant identified in the criminal record is not the same person as the teacher or school administrator. If the teacher or school administrator provides this written notice to the Board, the Board shall not revoke the certificate unless it can establish as a fact that the defendant and the teacher or school administrator are the same person.

- (3) In addition, the State Board may revoke or refuse to renew a teacher's certificate when:
- (1)a. The Board identifies the school in which the teacher is employed as low-performing under G.S. 115C-105.37 or G.S. 143B-146.5; and
  - (2)b. The assistance team assigned to that school makes the recommendation to revoke or refuse to renew the teacher's certificate for one or more reasons established by the State Board in its rules for certificate suspension or revocation.

The State Board may issue subpoenas for the purpose of obtaining documents or the testimony of witnesses in connection with proceedings to suspend or revoke certificates. In addition, the Board shall have the authority to contract with individuals who are qualified to conduct investigations in order to obtain all information needed to assist the Board in the proper disposition of allegations of misconduct by certificated persons."

**SECTION 2.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 15<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 10:37 a.m. on the 13<sup>th</sup> day of August, 2003.

**H.B. 926****Session Law 2003-409**

## AN ACT TO ENHANCE THE PENALTY FOR AN ASSAULT IN THE PRESENCE OF A MINOR.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 14-33 is amended by adding a new subsection to read:

"(d) Any person who, in the course of an assault, assault and battery, or affray, inflicts serious injury upon another person, or uses a deadly weapon, in violation of subdivision (c)(1) of this section, on a person with whom the person has a personal relationship, and in the presence of a minor, shall be placed on supervised probation in addition to any other punishment imposed by the court.

A person committing a second or subsequent violation of this subsection shall be sentenced to an active punishment of no less than 30 days in addition to any other punishment imposed by the court.

The following definitions apply to this subsection:

- (1) "Personal relationship" is as defined in G.S. 50B-1(b).
- (2) "In the presence of a minor" means that the minor was in a position to have observed the assault.
- (3) "Minor" is any person under the age of 18 years who is residing with or is under the care and supervision of, and who has a personal relationship with, the person assaulted or the person committing the assault."

**SECTION 2.** This act becomes effective December 1, 2003, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 18<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 10:37 a.m. on the 13<sup>th</sup> day of August, 2003.

**S.B. 919****Session Law 2003-410**

## AN ACT TO ENHANCE THE SAFETY OF VICTIMS IN SERIOUS DOMESTIC VIOLENCE CASES.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Chapter 50B of the General Statutes is amended by adding a new section to read:

**"§ 50B-3.1. Surrender and disposal of firearms; violations; exemptions.**

(a) Required Surrender of Firearms. – Upon issuance of an emergency or ex parte order pursuant to this Chapter, the court shall order the defendant to surrender to the sheriff all firearms, machine guns, ammunition, permits to purchase firearms, and permits to carry concealed firearms that are in the care, custody, possession, ownership, or control of the defendant if the court finds any of the following factors:

- (1) The use or threatened use of a deadly weapon by the defendant or a pattern of prior conduct involving the use or threatened use of violence with a firearm against persons.
- (2) Threats to seriously injure or kill the aggrieved party or minor child by the defendant.

- (3) Threats to commit suicide by the defendant.
- (4) Serious injuries inflicted upon the aggrieved party or minor child by the defendant.

(b) Ex Parte or Emergency Hearing. – The court shall inquire of the plaintiff, at the ex parte or emergency hearing, the presence of, ownership of, or otherwise access to firearms by the defendant, as well as ammunition, permits to purchase firearms, and permits to carry concealed firearms, and include, whenever possible, identifying information regarding the description, number, and location of firearms, ammunition, and permits in the order.

(c) Ten-Day Hearing. – The court, at the 10-day hearing, shall inquire of the defendant the presence of, ownership of, or otherwise access to firearms by the defendant, as well as ammunition, permits to purchase firearms, and permits to carry concealed firearms, and include, whenever possible, identifying information regarding the description, number, and location of firearms, ammunition, and permits in the order.

(d) Surrender. – Upon service of the order, the defendant shall immediately surrender to the sheriff possession of all firearms, machine guns, ammunition, permits to purchase firearms, and permits to carry concealed firearms that are in the care, custody, possession, ownership, or control of the defendant. In the event that weapons cannot be surrendered at the time the order is served, the defendant shall surrender the firearms, ammunitions, and permits to the sheriff within 24 hours of service at a time and place specified by the sheriff. The sheriff shall store the firearms or contract with a licensed firearms dealer to provide storage.

- (1) If the court orders the defendant to surrender firearms, ammunition, and permits, the court shall inform the plaintiff and the defendant of the terms of the protective order and include these terms on the face of the order, including that the defendant is prohibited from owning, possessing, purchasing, or receiving or attempting to own, possess, purchase, or receive a firearm for so long as the protective order or any successive protective order is in effect. The terms of the order shall include instructions as to how the defendant may request retrieval of any firearms, ammunition, and permits surrendered to the sheriff when the protective order is no longer in effect. The terms shall also include notice of the penalty for violation of G.S. 14-269.8.
- (2) The sheriff may charge the defendant a reasonable fee for the storage of any firearms and ammunition taken pursuant to a protective order. The fees are payable to the sheriff. The sheriff shall transmit the proceeds of these fees to the county finance officer. The fees shall be used by the sheriff to pay the costs of administering this section and for other law enforcement purposes. The county shall expend the restricted funds for these purposes only. The sheriff shall not release firearms, ammunition, or permits without a court order granting the release. The defendant must remit all fees owed prior to the authorized return of any firearms, ammunition, or permits. The sheriff shall not incur any civil or criminal liability for alleged damage or deterioration due to storage or transportation of any firearms or ammunition held pursuant to this section.

(e) Retrieval. – If the court does not enter a protective order when the ex parte or emergency order expires, the defendant may retrieve any weapons surrendered to the sheriff unless the court finds that the defendant is precluded from owning or possessing a firearm pursuant to State or federal law.

(f) Motion for Return. – The defendant may request the return of any firearms, ammunition, or permits surrendered by filing a motion with the court at the expiration of the current order and not later than 90 days after the expiration of the current order. Upon receipt of the motion, the court shall schedule a hearing and provide written notice to the plaintiff who shall have the right to appear and be heard and to the sheriff who has control of the firearms, ammunition, or permits. The court shall determine whether the defendant is subject to any State or federal law or court order that precludes the defendant from owning or possessing a firearm. The inquiry shall include:

- (1) Whether the protective order has been renewed;
- (2) Whether the defendant is subject to any other protective orders; or
- (3) Whether the defendant is disqualified from owning or possessing a firearm pursuant to 18 U.S.C. § 922 or any State law.

The court shall deny the return of firearms, ammunition, or permits if the court finds that the defendant is precluded from owning or possessing a firearm pursuant to State or federal law.

(g) Motion for Return by Third-Party Owner. – A third-party owner of firearms, ammunition, or permits who is otherwise eligible to possess such items may file a motion requesting the return to said third party of any such items in the possession of the sheriff seized as a result of the entry of a domestic violence protective order. The motion must be filed not later than 30 days after the seizure of the items by the sheriff. Upon receipt of the third party's motion, the court shall schedule a hearing and provide written notice to all parties and the sheriff. The court shall order return of the items to the third party unless the court determines that the third party is disqualified from owning or possessing said items pursuant to State or federal law. If the court denies the return of said items to the third party, the items shall be disposed of by the sheriff as provided in subsection (h) of this section.

(h) Disposal of Firearms. – If the defendant does not file a motion requesting the return of any firearms, ammunition, or permits surrendered within the time period prescribed by this section, if the court determines that the defendant is precluded from regaining possession of any firearms, ammunition, or permits surrendered, or if the defendant or third-party owner fails to remit all fees owed for the storage of the firearms or ammunition within 30 days of the entry of the order granting the return of the firearms, ammunition, or permits, the sheriff who has control of the firearms, ammunition, or permits shall give notice to the defendant, and the sheriff shall apply to the court for an order of disposition of the firearms, ammunition, or permits. The judge, after a hearing, may order the disposition of the firearms, ammunition, or permits in one or more of the ways authorized by subdivision (4), (4a), (5), or (6) of G.S. 14-269.1. If a sale by the sheriff does occur, any proceeds from the sale after deducting any costs associated with the sale, and in accordance with all applicable State and federal law, shall be provided to the defendant, if requested by the defendant by motion made before the hearing or at the hearing and if ordered by the judge.

(i) It is unlawful for any person subject to a protective order prohibiting the possession or purchase of firearms to:

- (1) Fail to surrender all firearms, ammunition, permits to purchase firearms, and permits to carry concealed firearms to the sheriff as ordered by the court;
- (2) Fail to disclose all information pertaining to the possession of firearms, ammunition, and permits to purchase and permits to carry concealed firearms as requested by the court; or
- (3) Provide false information to the court pertaining to any of these items.

(j) Violations. – In accordance with G.S. 14-269.8, it is unlawful for any person to own, possess, purchase, or receive or attempt to own, possess, purchase, or receive a firearm, as defined in G.S. 14-409.39(2), machine gun, ammunition, or permits to purchase or carry concealed firearms if ordered by the court for so long as that protective order or any successive protective order entered against that person pursuant to this Chapter is in effect. Any defendant violating the provisions of this section shall be guilty of a Class H felony.

(k) Official Use Exemption. – This section shall not prohibit law enforcement officers and members of any branch of the United States armed forces, not otherwise prohibited under federal law, from possessing or using firearms for official use only.

(l) Nothing in this section is intended to limit the discretion of the court in granting additional relief as provided in other sections of this Chapter."

**SECTION 2.** G.S. 14-269.8 reads as rewritten:

"§ 14-269.8. **Purchase or possession of firearms by person subject to domestic violence order prohibited.**

(a) ~~It~~In accordance with G.S. 50B-3.1, it is unlawful for any person to purchase or attempt to purchase any gun, rifle, pistol, or other firearm while there remains in force and effect a domestic violence order issued pursuant to Chapter 50B of the General Statutes, prohibiting the person from purchasing a firearm. own, possess, purchase, or receive or attempt to own, possess, purchase, or receive a firearm, as defined in G.S. 14-409.39(2), machine gun, ammunition, or permits to purchase or carry concealed firearms if ordered by the court for so long as that protective order or any successive protective order entered against that person pursuant to Chapter 50B of the General Statutes is in effect.

(b) Any person violating the provisions of this section shall be guilty of a Class H felony."

**SECTION 3.** This act becomes effective December 1, 2003, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 10<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 10:40 a.m. on the 13<sup>th</sup> day of August, 2003.

## S.B. 872

## Session Law 2003-411

AN ACT TO INCREASE PROTECTIONS FOR TELEPHONE SUBSCRIBERS WHO WISH TO STOP UNWANTED TELEPHONE SOLICITATIONS AND FOR CONSUMERS WHO ENTER INTO TELEMARKETING TRANSACTIONS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 75-30 is repealed.

**SECTION 2.** G.S. 75-30.1 is repealed.

**SECTION 3.** Chapter 75 of the General Statutes is amended by adding a new Article to read:

"Article 4.

"Telephone Solicitations.

**"§ 75-100. Findings.**

The General Assembly finds all of the following:

- (1) The use of the telephone to market goods and services to the home is now pervasive due to the increased use of cost-effective telephone solicitation technologies and techniques.
- (2) While some consumers enjoy and benefit from telephone solicitations from legitimate telephone solicitors, many others object to these telephone solicitations as an intrusive invasion of their privacy in the home.
- (3) In addition, the proliferation of telephone solicitations, especially during the evening hours, creates a nuisance and a disturbance upon the home and family life of telephone subscribers during a time of day used by many families for traditional family activities.
- (4) North Carolina residents should have the freedom to choose whether or not to permit telephone solicitors to contact them.
- (5) Individual privacy rights, personal safety, prevention of fraud, and commercial freedom of speech and trade must be balanced in a way that protects the privacy of individuals and permits legitimate telephone solicitation practices.
- (6) Legitimate telephone solicitors have no interest in continuing to invade the privacy of those telephone subscribers who affirmatively express their desires to receive no further telephone solicitations.
- (7) Many telephone subscribers who have transacted business with firms that employ telephone solicitations have experienced problems with their checking and credit card accounts being debited before they can evaluate the terms and conditions of the transaction, before they can evaluate the merchandise or service to be delivered, or without their agreement to enter into the transaction or authorize such transactions in the first place. Other telephone subscribers have had unauthorized charges placed on their telephone bill and have had their long-distance carrier switched without their authorization as a result of telephone solicitations.
- (8) New technologies that make telephone solicitations more cost-effective also allow for the creation of a 'Do Not Call' Registry through which North Carolina consumers can easily register their desires not to receive further telephone solicitations and telephone solicitors can easily access and employ lists of consumers who have registered those desires.
- (9) The public interest requires an efficient mechanism for telephone subscribers to notify telephone solicitors that their telephone numbers cannot be called and additional protections for North Carolina residents who enter into consumer transactions initiated through telephone solicitations.

**"§ 75-101. Definitions.**

The following definitions apply in this Article:

- (1) Affiliate. – A business establishment, business, or other legal entity that wholly or substantially owns, is wholly or substantially owned by, or is under common ownership with a telephone solicitor.
- (2) Automatic dialing and recorded message player. – Any automatic equipment that incorporates a storage capability of telephone numbers to be called or a random or a sequential number generator capable of producing numbers to be called that, working alone or in conjunction with other equipment, disseminates a prerecorded message to the telephone number called.
- (3) 'Do Not Call' Registry. – The registry created and maintained by the Federal Trade Commission pursuant to the Telemarketing Sales Rule. It also means any other telemarketing registry created by the federal government, including the Federal Communications Commission. It also means any registry created by the Attorney General pursuant to G.S. 75-102(n).
- (4) Doing business in this State. – To make or cause to be made any telephone solicitation to North Carolina telephone subscribers, whether the telephone solicitations are made from a location inside North Carolina or outside North Carolina.
- (5) Established business relationship. – A relationship between a seller and a consumer based on:
  - a. The consumer's purchase, rental, or lease of the seller's goods or services or a financial transaction between the consumer and the seller or one or more of its affiliates within the 18 months immediately preceding the date of a telephone solicitation; or
  - b. The consumer's inquiry or application regarding a product or service offered by the seller within the three months immediately preceding the date of a telephone solicitation.
- (6) Express invitation or permission. – Any invitation or permission that is registered by the telephone subscriber on an independent form and that contains the telephone number to which calls can be placed and the signature of the telephone subscriber. The form may be completed and signed electronically.
- (7) Person. – Any individual, business establishment, business, or other legal entity.
- (8) Telemarketing Sales Rule. – The federal regulation promulgated by the Federal Trade Commission, 16 C.F.R. Part 310 (January 29, 2003 Edition), as amended, to implement the Telemarketing and Consumer Fraud and Abuse Prevention Act, 15 U.S.C. §§ 6101-6108, as amended.
- (9) Telephone solicitation. – A voice communication, whether prerecorded, live, or a facsimile, over a telephone line or wireless telephone network or via a commercial mobile radio service that is made by a telephone solicitor to a telephone subscriber for the purpose of soliciting or encouraging the purchase or rental of, or investment in, property, goods, or services; obtaining or providing information that will or may be used for that purpose; soliciting or encouraging a



- telephone subscriber's participation in any contest, sweepstakes, raffle, or lottery, whether legal or illegal; or obtaining a charitable donation. 'Telephone solicitation' also includes those transactions that are defined as 'telemarketing' under the Telemarketing Sales Rule.
- (10) Telephone solicitor. – Any individual, business establishment, business, or other legal entity doing business in this State that, directly or through salespersons or agents, makes or attempts to make telephone solicitations or causes telephone solicitations to be made. 'Telephone solicitor' also includes any party defined as a 'telemarketer' under the Telemarketing Sales Rule.
- (11) Telephone subscriber. – An individual who subscribes to a residential telephone service from a local exchange company, a competing local provider certified to do business in North Carolina, or a wireless telephone company; or the individuals living or residing with that individual.
- (12) Unsolicited telephone call. – A voice communication, whether prerecorded, live, or a facsimile, over a telephone line or wireless telephone network or via a commercial mobile radio service that is made by a person to a telephone subscriber without prior express invitation or permission.

**"§ 75-102. Restrictions on telephone solicitations.**

(a) Except as provided in G.S. 75-103, no telephone solicitor shall make a telephone solicitation to a telephone subscriber's telephone number if the telephone subscriber's telephone number appears in the latest edition of the 'Do Not Call' Registry.

(b) No telephone solicitor shall make a telephone solicitation to a telephone subscriber's telephone number if the telephone subscriber previously has communicated to the telephone solicitor a desire to receive no further telephone solicitations from the telephone solicitor to that number.

(c) Any telephone solicitor who makes a telephone solicitation shall do all of the following:

- (1) At the beginning of the telephone solicitation, state clearly the identity of the telephone solicitor and identify the individual making the telephone solicitation.
- (2) Upon request, provide the telephone subscriber with the telephone number or address at which the telephone solicitor may be contacted.
- (3) If the telephone subscriber requests to be taken off the contact list of the telephone solicitor, the telephone solicitor shall take all steps necessary to remove the telephone subscriber's name and telephone number from the contact list of the telephone solicitor and stop calling the telephone subscriber within 30 business days.
- (4) If the telephone subscriber objects to the telephone solicitation, terminate the telephone solicitation and promptly disconnect from the telephone line of the person receiving the call.
- (5) Notwithstanding subdivision (3) of this subsection, if a telephone solicitor relies on the established business relationship of an affiliate to solicit a residential telephone subscriber whose telephone number is listed in the latest edition of the 'Do Not Call' Registry and the person called communicates a desire to receive no further telephone solicitations from the telephone solicitor, the telephone solicitor shall

take all steps necessary to remove that telephone subscriber's telephone number from the contact lists of the telephone solicitor and that affiliate, unless the telephone subscriber indicates otherwise, and the telephone solicitor and that affiliate shall stop calling the telephone subscriber at that number within 60 business days.

(d) Every telephone solicitor shall implement systems and written procedures to prevent further telephone solicitations to any telephone subscriber who has asked not to be called again at a specific number or numbers or whose telephone number appears in the 'Do Not Call' Registry. Every telephone solicitor shall train, monitor, and enforce compliance by its employees and shall monitor and enforce compliance by its independent contractors in those systems and procedures. Every telephone solicitor shall ensure that lists of telephone numbers that may not be contacted by the telephone solicitor are maintained and recorded. Compliance with the time requirements within the Telemarketing Sales Rule for incorporating and complying with updated versions of the 'Do Not Call' Registry shall constitute compliance with North Carolina law.

(e) Except as provided in G.S. 75-103, no telephone solicitor shall violate any requirement of section 310.3 of the Telemarketing Sales Rule (Deceptive telemarketing acts or practices), section 310.4 of the Telemarketing Sales Rule (Abusive telemarketing acts or practices), and section 310.5 of the Telemarketing Sales Rule (Record keeping requirements).

(f) No telephone solicitor shall make a telephone solicitation before 8:00 A.M. or after 9:00 P.M.

(g) A telephone solicitor shall inquire as to whether the telephone subscriber is under the age of 18. If the telephone subscriber purports to be less than 18 years of age, the telephone solicitor shall discontinue the call immediately. No inquiry is required where the solicitor has taken reasonable steps to remove all telephone contacts who are less than 18 years of age from its list of subscribers being contacted or can demonstrate that it does not target subscribers who are less than 18 years of age.

(h) No telephone solicitor shall engage in threats, intimidation, or the use of profane or obscene language.

(i) No telephone solicitor shall knowingly use any method to block or otherwise circumvent a telephone subscriber's use of a caller identification service. A telephone solicitor who makes a telephone solicitation through the use of a private branch exchange (PBX) or other call-generating system that is not capable of transmitting caller identification information shall not be in violation of this subsection. No provider of telephone caller identification services shall be held liable for violations of this subsection committed by other individuals or entities.

(j) A telephone solicitor or its agent that makes telephone solicitations on its behalf, provided that the telephone solicitor ensures compliance by its agent, shall keep a record for a period of 24 months from the date a telephone solicitation is made of the legal name, any fictitious name used, the resident address, the telephone number, and the job title of each individual who makes a telephone solicitation for that telephone solicitor. If an individual who makes telephone solicitations for a telephone solicitor uses a fictitious name, the fictitious name shall be traceable only to the specific individual.

(k) Nothing in this section prohibits a telephone solicitor from contacting by nontelephonic notice a telephone subscriber whose telephone number appears in the 'Do Not Call' Registry to obtain the telephone subscriber's express invitation or permission allowing the telephone solicitor to make telephone solicitations to the telephone

subscriber. A telephone solicitor shall not contact a telephone subscriber by telephone to obtain this express invitation or permission.

(l) Nothing in this section prohibits a telephone solicitor from advertising in a general medium or contacting by nontelephonic notice a telephone subscriber whose telephone number appears in the 'Do Not Call' Registry to encourage the telephone subscriber to initiate telephone calls to the telephone solicitor. A telephone solicitor shall not contact a telephone subscriber by telephone to obtain this express invitation or permission.

(m) The Attorney General, in consultation with the Public Staff of the Public Utilities Commission, shall draft the contents of a bill insert that notifies consumers of the existence of the 'Do Not Call' Registry and provides information to consumers on how to use it and the other provisions of this Article to object to receiving telephone solicitations. Local exchange companies shall distribute the insert pursuant to G.S. 62-54.

(n) In the event that the federal 'Do Not Call' Registry is not operational by January 1, 2004, or ceases to operate for any reason after January 1, 2004, the Attorney General may develop, operate, and maintain such a registry for the benefit of North Carolina telephone subscribers.

(o) In telephone solicitation transactions involving telephone subscribers, no contract or purchase agreement entered into during a telephone solicitation is valid, and no money from the prospective purchaser is due thereunder, unless all the following conditions are satisfied:

- (1) The contract and the sales representations that precede it are not deceptive or abusive telemarketing acts or practices as elaborated in sections 310.3 and 310.4 of the Telemarketing Sales Rule only to the extent that this Article requires telephone solicitors to comply with these regulations.
- (2) The telephone solicitor has complied with the record keeping requirements of section 310.5 of the Telemarketing Sales Rule only to the extent that this Article requires telephone solicitors to comply with these regulations.
- (3) The contract and the sales representations that precede it comply with all other applicable federal and State laws, including Article 1 of this Chapter.

**"§ 75-103. Limited exceptions.**

(a) G.S. 75-102(a) does not apply to any of the following telephone solicitations that are made:

- (1) To any telephone subscriber with the telephone subscriber's prior express invitation or permission.
- (2) To any telephone subscriber with whom the telephone solicitor has an established business relationship.
- (3) By or on behalf of a tax-exempt nonprofit organization.
- (4) By or on behalf of a telephone solicitor that employs fewer than 10 full-time or part-time direct employees, the telephone solicitations are made by the direct employees, and the direct employees collectively make or attempt to make no more than an average of 10 telephone solicitations to telephone subscribers per week during a calendar year.

(5) To any telephone subscriber for the sole purpose of arranging a subsequent face-to-face meeting between the telephone solicitor and the telephone subscriber and the telephone solicitor does none of the following during the telephone solicitation:

- a. Seek payment from the telephone subscriber in connection with the sale or rental of, or investment in, property, goods, or services.
- b. Complete the sale or rental of, or investment in, property, goods, or services.
- c. Obtain provisional acceptance of a sale, rental, or investment.
- d. Obtain the agreement of the telephone subscriber to participate in any contest, sweepstakes, raffle, or lottery.
- e. Directly following the telephone solicitation, go or cause an individual to go to the telephone subscriber to collect a payment or deliver any item purchased.

(6) By a person primarily soliciting the sale of a subscription for a newspaper of general circulation.

(b) G.S. 75-102(c)(3), 75-102(d), 75-102(g), and 75-102(j) do not apply to any telephone solicitations described in G.S. 75-103(a)(1), (2), (3), (4), and (5).

(c) G.S. 75-102(e) does not apply to any of the telephone solicitations described in subdivisions (a)(4) and (a)(5) of this section.

(d) G.S. 75-102(e) does not apply to any of the telephone solicitations described in subdivisions (a)(1), (a)(2), and (a)(3) of this section, except that these types of telephone solicitations shall comply with sections 310.3(a)(2), (a)(3), and (a)(4), 310.3(c), 310.3(d), 310.4(a), 310.4(b)(1)(i) and (iv), (b)(2), (b)(3), and (b)(4), and 310.4(e) of the Telemarketing Sales Rule.

(e) In any dispute regarding whether a telephone subscriber has provided an express invitation or permission under subsection (a) of this section, the telephone solicitor has the burden of proving that the telephone subscriber has provided this permission by producing the original document, a facsimile document, or an electronic form, signed by the telephone subscriber, or other authentication that evidences permission. A telephone subscriber may subsequently retract express invitation or permission by indicating a desire not to receive further telephone solicitations under G.S. 75-102(b).

**"§ 75-104. Restrictions on use of automatic dialing and recorded message players.**

(a) Except as provided in this section, no person may use an automatic dialing and recorded message player to make an unsolicited telephone call.

(b) Notwithstanding subsection (a) of this section, a person may use an automatic dialing and recorded message player to make an unsolicited telephone call only under one or more of the following circumstances:

(1) All of the following are satisfied:

- a. The person making the call is any of the following:
  1. A tax-exempt charitable or civic organization.
  2. A political party or political candidate.
  3. A governmental official.
  4. An opinion polling organization, radio station, television station, cable television company, or broadcast rating service conducting a public opinion poll.
- b. No part of the call is used to make a telephone solicitation.

- c. The person making the call clearly identifies the person's name and contact information and the nature of the unsolicited telephone call.
- (2) Prior to the playing of the recorded message, a live operator complies with G.S. 75-102(c), states the nature and length in minutes of the recorded message, and asks for and receives prior approval to play the recorded message from the person receiving the call.
- (3) The unsolicited telephone call is in connection with an existing debt or contract for which payment or performance has not been completed at the time of the unsolicited telephone call.
- (4) The unsolicited telephone call is placed by a person with whom the telephone subscriber has made an appointment, provided that the call is conveying information only about the appointment, or by a utility, telephone company, cable television company, satellite television company, or similar entity for the sole purpose of conveying information or news about network outages, repairs or service interruptions, and confirmation calls related to restoration of service.
- (5) The person plays the recorded message in order to comply with section 16 C.F.R. Part 310.4(b)(4) of the Telemarketing Sales Rule.

**"§ 75-105. Enforcement.**

(a) The Attorney General may investigate any complaints received alleging violation of this Article. If the Attorney General finds that there has been a violation of this Article, the Attorney General may bring an action to impose civil penalties and to seek any other appropriate relief pursuant to this Chapter, including equitable relief to restrain the violation. If the Attorney General brings an action on behalf of telephone subscribers pursuant to subsection (b) of this section, the Attorney General may not seek treble damages on behalf of telephone subscribers pursuant to G.S. 75-16. Actions for civil penalties under this section shall be consistent with the provisions of this Chapter except that the penalty imposed for a violation of this Article shall be either of the following:

- (1) Five hundred dollars (\$500.00) for the first violation, one thousand dollars (\$1,000) for the second violation, and five thousand dollars (\$5,000) for the third and any other violation that occurs within two years of the first violation.
- (2) One hundred dollars (\$100.00) for each violation within two years of the first violation, if the solicitor can show that the violations are the result of a mistake and the telephone solicitor either made the telephone solicitation under G.S. 75-103(a)(1), (2), (3), (4), and (5), or can show that the telephone solicitor complied with G.S. 75-102(d).

(b) A telephone subscriber who has received a telephone solicitation from or on behalf of a telephone solicitor in violation of this Article may bring any of the following actions in civil court:

- (1) An action to enjoin further violations of this Article by the telephone solicitor.
- (2) An action to recover five hundred dollars (\$500.00) for the first violation, one thousand dollars (\$1,000) for the second violation, and five thousand dollars (\$5,000) for the third and any other violation that occurs within two years of the first violation.

(c) No action may be brought under subsection (b) of this section if the violations are a result of mistake and the telephone solicitor either made the telephone solicitation under G.S. 75-103(a)(1), (2), (3), (4), and (5), or can show that the telephone solicitor complied with G.S. 75-102(d).

(d) In an action brought pursuant to this Article, the court may award a prevailing plaintiff reasonable attorneys' fees if the court finds the defendant willfully engaged in the act or practice, and the court may award reasonable attorneys' fees to a prevailing defendant if the court finds that the plaintiff knew, or should have known, that the action was frivolous and malicious.

(e) A citizen of this State may also bring an action in civil court to enforce the private rights of action established by federal law under 47 U.S.C. § 227(b)(3) and 47 U.S.C. § 227(c)(5).

(f) Actions brought by telephone subscribers pursuant to this section shall be tried in the county where the plaintiff resides at the time of the commencement of the action."

**SECTION 4.** G.S. 75-102(i), as enacted in Section 3 of this act, reads as rewritten:

"(i) No telephone solicitor shall knowingly use any method to block or otherwise circumvent a telephone subscriber's use of a caller identification service. ~~A telephone solicitor who makes a telephone solicitation through the use of a private branch exchange (PBX) or other call-generating system that is not capable of transmitting caller identification information shall not be in violation of this subsection.~~ No provider of telephone caller identification services shall be held liable for violations of this subsection committed by other individuals or entities."

**SECTION 5.** G.S. 62-54 reads as rewritten:

**"§ 62-54. Notification of opportunity to object to telephone solicitation.**

The Commission shall require each local exchange company and each competing local provider certified to do business in North Carolina to notify all ~~persons-~~ telephone subscribers who subscribe to residential service from that company of the provisions of ~~G.S. 75-30.1, Article 4 of Chapter 75 of the General Statutes and~~ of the federal laws and regulations allowing consumers to object to receiving telephone solicitations, ~~and of programs made available by private industry that allow consumers to have their names removed from telemarketing lists, by enclosing that information, by enclosing a bill insert, drafted pursuant to G.S. 75-102(m), at least annually, in every-at least one telephone bill mailed to customers-~~ every residential customer. The Commission shall also ensure that this information is printed in a clear, conspicuous manner in the consumer information pages of each telephone directory distributed to residential customers."

**SECTION 6.** Should one or more of the terms or provisions of this act or any application thereof be held or declared unenforceable or invalid to any extent, the remainder of this act, and the applications thereof that have not been held or declared unenforceable or invalid, shall remain in effect. In the specific event that the provisions of G.S. 75-102, 75-103, 75-104, or 75-105 as enacted in Section 3 of this act, are declared to be preempted or otherwise unenforceable in relation to interstate telephone calls, those provisions shall remain in force and effect with respect to intrastate telephone calls.

**SECTION 7.** Consistent with protected speech rights of businesses that engage in telephone solicitations, the provisions of this act shall be given broad construction so as to protect telephone subscribers from unwanted telephone

solicitations and from problematic sales techniques and payment procedures often associated with these solicitations.

**SECTION 8.** Section 4 of this act becomes effective January 1, 2006. G.S. 62-54, as amended by Section 5 of this act, applies to all telephone directories printed on or after January 1, 2004. All other sections of this act become effective October 1, 2003, and apply to telephone solicitations made on or after that date.

In the General Assembly read three times and ratified this the 19<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 10:48 a.m. on the 14<sup>th</sup> day of August, 2003.

**S.B. 963**

**Session Law 2003-412**

**AN ACT TO PROHIBIT SELLERS FROM CHARGING EXCESSIVE PRICES ON THEIR MERCHANDISE AND SERVICES DURING DECLARED STATES OF DISASTER.**

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Article 1 of Chapter 75 of the General Statutes is amended by adding new sections to read:

**"§ 75-36. Declaration of State public policy.**

It is the public policy of this State to protect its citizens from price gouging during states of disaster. The State also realizes the difficulty in regulating prices while not defeating the ability of the market in goods and services from bringing supply back in balance with demand and not defeating the function of price in allocating scarce resources.

**"§ 75-36.1. Prohibit excessive pricing during states of disaster.**

(a) It shall be a violation of G.S. 75-1.1 for any person to sell or rent or offer to sell or rent at retail during a state of disaster, in the area for which the state of disaster has been declared, any merchandise or services which are consumed or used as a direct result of an emergency or which are consumed or used to preserve, protect, or sustain life, health, safety, or comfort of persons or their property with the knowledge and intent to charge a price that is unreasonably excessive under the circumstances. In determining whether a price is unreasonably excessive, it shall be considered whether:

- (1) The price charged by the seller is attributable to additional costs imposed by the seller's supplier or other costs of providing the good or service during the state of disaster; and
- (2) The seller offered to sell or rent the merchandise or service at a price that was below the seller's average price in the preceding 60 days before the state of disaster.

If the seller did not sell or rent or offer to sell or rent the merchandise or service in question prior to the time the state of disaster was declared, the price at which the merchandise or service was generally available in the trade area shall be used as a factor in determining if the seller is charging an unreasonably excessive price.

(b) In the event the Attorney General investigates a complaint for a violation of this section and determines that the seller has not violated the provisions of this section and if the seller so requests, the Attorney General shall promptly issue a signed statement indicating that the Attorney General has not found a violation of this section.

(c) For the purposes of this section, the end of a state of disaster is the earlier of 45 days or the termination of a natural or man-made disaster or emergency as declared in accordance with G.S. 166A-6 or G.S. 166A-8."

**SECTION 2.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 16<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 10:51 a.m. on the 14<sup>th</sup> day of August, 2003.

**S.B. 925**

**Session Law 2003-413**

AN ACT TO STRENGTHEN THE LAWS TO PREVENT SECURITIES FRAUD AND TO CLARIFY THE PROHIBITION ON STATE CONTRACTS WITH VENDORS THAT ARE INCORPORATED IN A TAX HAVEN COUNTRY BUT THE UNITED STATES IS THE PRINCIPAL MARKET FOR THE PUBLIC TRADING OF THEIR CORPORATION'S STOCK.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 78A-12 reads as rewritten:

"§ 78A-12. **Manipulation of market.**

(a) In addition to the prohibitions of G.S. 78A-8, it is unlawful for any person ~~to~~ to do any of the following:

- (1) Willfully quote a fictitious price with respect to a ~~security;~~security.
- (2) Effect a transaction in a security which involves no change in the beneficial ownership of the security, for the purpose of creating a false or misleading appearance of active trading in a security, or a false or misleading appearance of activity with respect to the market for the ~~security;~~security.
- (3) Enter an order for the purchase of a security with the knowledge that, at substantially the same time, an order of substantially the same size, and at substantially the same price, for the sale of the security has been, or will be, entered by or for the same person, or an affiliated person, for the purpose of creating a false or misleading appearance of active trading in a security, or a false or misleading appearance of activity with respect to the market for the ~~security;~~security.
- (4) Enter an order for the sale of a security with knowledge that, at substantially the same time, an order of substantially the same size, and at substantially the same price, for the purchase of the security has been, or will be, entered by or for the same person, or an affiliated person, for the purpose of creating a false or misleading appearance of active trading in a security, or a false or misleading appearance of activity with respect to the market for the ~~security;~~or security.
- (5) Employ any other deceptive or fraudulent device, scheme, or artifice to manipulate the market in a ~~security;~~security, including the issuance, with the intent to deceive or defraud, of analyses, reports, or financial statements that are false or misleading in any material respect.



(b) A transaction effected in compliance with the applicable provisions of the Securities Exchange Act of 1934 and the rules and regulations of the Securities and Exchange Commission thereunder is not manipulation of the market under subsection (a) of this section."

**SECTION 2.** G.S. 78A-25(a)(1)b. reads as rewritten:

"b. The issuer and any predecessors during the past three fiscal years have had average net earnings, determined in accordance with generally accepted accounting ~~practices,~~principles, (i) which are applicable to all securities without a fixed maturity or a fixed interest or dividend or distribution provision outstanding at the date the registration statement is filed and equal at least five percent (5%) of the amount of such outstanding securities (as measured by the maximum offering price or the market price on a day, selected by the registrant, within 30 days before the date of filing the registration statement, whichever is higher, or book value on a day, selected by the registrant, within 90 days of the date of filing the registration statement to the extent that there is neither a readily determinable market price nor a cash offering price), or (ii) which, if the issuer and any predecessors have not had any security of the type specified in clause (i) outstanding for three full fiscal years, equal at least five percent (5%) of the amount (as measured in clause (i)) of all securities which will be outstanding if all the securities being offered or proposed to be offered (whether or not they are proposed to be registered or offered in this State) are issued;".

**SECTION 3.** G.S. 78A-37(a) reads as rewritten:

"(a) A dealer or salesman may obtain an initial or renewal registration by filing with the Administrator an application together with a consent to service of process pursuant to G.S. 78A-63(f). The application shall contain whatever information the Administrator by rule requires concerning such matters as (i) the applicant's form and place of organization; (ii) the applicant's proposed method of doing business; (iii) the qualifications and business history of the applicant; in the case of a dealer, the qualifications and business history of any partner, officer, or director, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling the dealer, and a representation that the applicant dealer is duly registered as a dealer under the Securities Exchange Act of 1934; (iv) any injunction or administrative order or conviction of a misdemeanor involving a security or any aspect of the securities business and any conviction of a felony; and (v) the applicant's financial condition and history. If no denial order is in effect and no proceeding is pending under G.S. 78A-39, registration becomes effective at noon of the thirtieth day after an application is filed. The Administrator may by rule or order specify an earlier effective ~~date,~~date and ~~he~~ may by order defer the effective date until noon of the thirtieth day after the filing of any amendment. Registration of a dealer automatically constitutes registration of any salesman who is a partner, executive officer, or director, or a person occupying a similar status or performing similar functions. After the Administrator institutes a proceeding under G.S. 78A-39 to postpone or deny an application for registration, withdrawal of the application shall be allowed only at such time and under such conditions as the Administrator may by order determine."

**SECTION 4.** G.S. 78A-49(c) reads as rewritten:

"(c) The Administrator may by rule or order prescribe (i) the form and content of financial statements required under this Chapter, (ii) the circumstances under which consolidated financial statements shall be filed, and (iii) whether any required financial statements shall be certified by independent or certified public accountants. All financial statements required to be filed with the Administrator shall be audited and shall be prepared in accordance with generally accepted accounting practices-principles, except where the Administrator may by rule or order provide otherwise. In determining whether to permit the filing of financial statements that have not been audited, the Administrator shall consider all of the following factors:

- (1) Whether lesser standards for financial statements will impair investor protection.
- (2) The cost of preparation of audited financial statements relative to the proposed offering amount.
- (3) Whether recently audited financial statements of the issuer are available in addition to current interim statements.
- (4) Whether the issuer has commenced significant business operations.
- (5) Any other factors that are relevant to the protection of the investing public."

**SECTION 5.** G.S. 78A-56(a) reads as rewritten:

"(a) Any person who:

- (1) Offers or sells a security in violation of G.S. 78A-8(1), 78A-8(3), 78A-10(b), ~~78A-12~~, 78A-13, 78A-14, 78A-24, or 78A-36(a), or of any rule or order under G.S. 78A-49(d) which requires the affirmative approval of sales literature before it is used, or of any condition imposed under G.S. 78A-27(d) or 78A-28(g), or
- (2) Offers or sells a security by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading (the purchaser not knowing of the untruth or omission), and who does not sustain the burden of proof that he did not know, and in the exercise of reasonable care could not have known, of the untruth or omission,

is liable to the person purchasing the security from him, who may sue either at law or in equity to recover the consideration paid for the security, together with interest at the legal rate from the date of payment, costs, and reasonable attorneys' fees, less the amount of any income received on the security, upon the tender of the security, or for damages if ~~he~~ the purchaser no longer owns the security. Damages are the amount that would be recoverable upon a tender less the value of the security when the purchaser disposed of it and interest at the legal rate as provided by G.S. 24-1 from the date of disposition."

**SECTION 6.** G.S. 78A-56(b) reads as rewritten:

"(b) Any person who purchases a security by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading (the seller not knowing of the untruth or omission), and who does not sustain the burden of proof that ~~he~~ the person did not know, and in the exercise of reasonable care could not have known, of the untruth or omission, shall be liable to the person selling the security to him, who may sue either at law or in equity to recover the

security, plus any income received by the purchaser thereon, upon tender of the consideration received, or for damages if the purchaser no longer owns the security. Damages are the excess of the value of the security when the purchaser disposed of it, plus interest at the legal rate as provided by G.S. 24-1 from the date of disposition, over the consideration paid for the security."

**SECTION 7.** G.S. 78A-56 is amended by adding a new subsection to read:

"(b1) A person who willfully violates G.S. 78A-12 is liable to a person who purchases or sells a security, other than a security traded on a national securities exchange or quoted on a national automated quotation system administered by a self-regulatory organization, at a price that was affected by the act or transaction for the damages sustained as a result of the act or transaction. Damages are the difference between the price at which the securities were purchased or sold and the value the securities would have had at the time of the person's purchase or sale in the absence of the act or transaction, plus interest at the legal rate as provided by G.S. 24-1 from the date of the purchase or sale, costs, and reasonable attorneys' fees determined by the court."

**SECTION 8.** G.S. 78A-56(c) reads as rewritten:

"(c)

- (1) Every person who directly or indirectly controls a person liable under subsection ~~(a) or (b)~~, (a), (b), or (b1) of this section, every partner, officer, or director of ~~such a~~the person, every person occupying a similar status or performing similar functions, ~~every employee of such a person who materially aids in the act or transaction,~~ and every ~~dealer or salesman~~dealer or salesman who materially aids in the sale ~~are~~is also liable jointly and severally with and to the same extent as ~~such the~~ person, unless ~~the person who is so liable sustains~~able to sustain the burden of proof that ~~he the person~~ did not know, and in the exercise of reasonable care ~~should~~could not have known, of the existence of the facts by reason of which the liability is alleged to exist.
- (2) Unless liable under subdivision (1) of this subsection, every employee of a person liable under subsection (a), (b), or (b1) of this section who materially aids in the transaction giving rise to the liability and every other person who materially aids in the transaction giving rise to the liability is also liable jointly and severally with and to the same extent as the person if the employee or other person actually knew of the existence of the facts by reason of which the liability is alleged to exist.
- (3) There is contribution as ~~in cases of contract~~ among the several persons ~~so liable~~liable under subdivisions (1) and (2) of this subsection as provided among tort-feasors pursuant to Chapter 1B of the General Statutes."

**SECTION 9.** G.S. 78A-56(f) reads as rewritten:

"(f) No person may sue under this section for a violation of G.S. 78A-24 or G.S. 78A-36 more than two years after the sale or contract of sale.

No person may sue under this section for any other violation of this Chapter more than three years after the person discovers facts constituting the violation, but in any case no later than five years after the sale or contract of sale, except that if a person who may be liable under this section engages in any fraudulent or deceitful act that conceals

the violation or induces the person to forgo or postpone commencing an action based upon the violation, the suit may be commenced not later than three years after the person discovers or should have discovered that the act was fraudulent or deceitful."

**SECTION 10.** G.S. 78A-56(j) reads as rewritten:

"(j) The rights and remedies provided by this Chapter are in addition to any other rights or remedies that may exist at law or in equity, but this Chapter does not create any cause of action not specified in this section or G.S. 78A-37(d). If the requirements of Chapter 1D of the General Statutes are met, punitive damages are available to the extent provided in that Chapter."

**SECTION 11.** G.S. 78A-57 reads as rewritten:

"§ 78A-57. **Criminal penalties.**

(a) Any person who willfully violates any provision of this Chapter except G.S. 78A-8, 78A-9, 78A-11, 78A-12, 78A-13, or 78A-14 is guilty of a Class I felony.

(a1) Any person or who willfully violates any rule or order under this Chapter, or who willfully violates G.S. 78A-9 knowing the statement made to be false or misleading in any material respect, shall upon conviction be punished as a Class I felon; but no Chapter is guilty of a Class I felony. No person may be imprisoned for the violation of any rule or order if he the person proves that he the person had no knowledge of the rule or order. It is an affirmative defense to a charge of violating an order under this Chapter that the person had no knowledge of the order.

(a2) Any person who willfully violates G.S. 78A-8, 78A-11, ~~78A-12,~~ 78A-13, or 78A-14 shall, upon conviction be punished as a Class H felon. is guilty of a felony. If the losses caused by a single act or a series of related acts in a common scheme or plan are one hundred thousand dollars (\$100,000) or more, the person is guilty of a Class C felony. If the losses caused by a single act or a series of related acts in a common scheme or plan are less than one hundred thousand dollars (\$100,000), the person is guilty of a Class H felony.

(a3) Any person who willfully violates G.S. 78A-9 knowing the statement made to be false or misleading in any material respect is guilty of a Class H felony. Any other willful violation of G.S. 78A-9 constitutes a Class 2 misdemeanor.

(a4) Any person who willfully violates G.S. 78A-12 is guilty of a Class H felony.

(b) The Administrator may refer such evidence as is available concerning violations of this Chapter or of any rule or order hereunder to the proper district attorney, who may, with or without such a reference, institute the appropriate criminal proceedings under this Chapter. Upon receipt of ~~such a~~ reference, the district attorney may request that a duly employed attorney of the Administrator prosecute or assist in the prosecution of ~~such the~~ violation or violations on behalf of the State. Upon approval of the Administrator, ~~such the~~ employee may be appointed a special prosecutor for the district attorney to prosecute or assist in the prosecution of ~~such the~~ violations without receiving compensation from the district attorney. Such a special prosecutor shall have all the powers and duties prescribed by law for district attorneys and such other powers and duties as are lawfully delegated to ~~such the~~ special prosecutor by the district attorney for violations of this Chapter.

(c) Nothing in this Chapter limits the power of the State to punish any person for any conduct which constitutes a crime by statute or at common law."

**SECTION 12.** Article 7 of Chapter 78A of the General Statutes is amended by adding a new section to read:

**"§ 78A-58. Obstruction of investigation.**

A person is guilty of a Class H felony if the person willfully does any of the following for the purpose of interfering with the performance of any audit, examination, or investigation by the Administrator under this Chapter:

- (1) Makes or causes to be made to the Administrator or the Administrator's designated representative any false or misleading oral or written statement.
- (2) Creates, causes to be made, or delivers any record, report, or document knowing that it is false or misleading in any material respect.
- (3) Destroys or alters any record, report, or document.
- (4) Conceals or secretes any record, report, or document."

**SECTION 13.** G.S. 78A-63(a) reads as rewritten:

"(a) ~~Sections~~G.S. 78A-8, 78A-10, 78A-13, 78A-14, 78A-24, 78A-31, 78A-36(a), and 78A-56 apply to persons who sell or offer to sell when (i) an offer to sell is made in this State, or (ii) an offer to buy is made and accepted in this State."

**SECTION 14.** G.S. 78A-63(b) reads as rewritten:

"(b) ~~Sections~~G.S. 78A-8, 78A-10, 78A-36(a) and 78A-56(b) apply to persons who buy or offer to buy when (i) an offer to buy is made in this State, or (ii) an offer to sell is made and accepted in this State."

**SECTION 15.** G.S. 78A-63 is amended by adding a new subsection to read:

"(b1) G.S. 78A-12 applies when any act instrumental to effecting prohibited conduct is done in this State."

**SECTION 16.** G.S. 78C-2(1) reads as rewritten:

"(1) "Investment adviser" means any person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, or who, for compensation and as part of a regular business, issues or promulgates analyses or reports concerning securities. "Investment adviser" also includes financial planners and other persons who, as an integral component of other financially related services, provide the foregoing investment advisory services to others for compensation and as a part of a business or who hold themselves out as providing the foregoing investment advisory services to others for compensation. "Investment adviser" does not include:

- a. An investment adviser representative or a person excluded from the definition of investment adviser representative pursuant to ~~G.S. 78C-2(3)e.~~G.S. 78C-2(3)c.
- b. A bank, savings institution, or trust ~~company;~~company.
- c. A lawyer, accountant, engineer, or teacher whose performance of any such services is solely incidental to the practice of his ~~profession;~~profession.
- d. A dealer or its salesman whose performance of these services is solely incidental to the conduct of its business as a dealer and who receives no special compensation for ~~them;~~them.
- e. A publisher of any newspaper, news column, newsletter, news magazine, or business or financial publication or service, whether communicated in hard copy form, or by electronic

means, or otherwise, that does not consist of the rendering of advice on the basis of the specific investment situation of each ~~client;~~client.

- f. A person solely by virtue of such person's services to or on behalf of any "business development company" as defined in Section 202(a)(22) of the Investment Advisers Act of 1940 provided the business development company is not an "investment company" by reason of Section 3(c)(1) of the Investment Company Act of 1940, as both acts were in effect on ~~June 1, 1988;~~June 1, 1988.
- g. A personal representative of a decedent's estate, guardian, conservator, receiver, attorney in fact, trustee in bankruptcy, trustee of a testamentary trust, or a trustee of an inter vivos trust, not otherwise engaged in providing investment advisory services, and the performance of these services is not a part of a plan or scheme to evade registration or the substantive requirements of this ~~Chapter;~~Chapter.
- h. A licensed real estate agent or broker whose only compensation is a commission on real estate ~~sold;~~sold.
- i. An individual or company primarily engaged in acting as a business broker whose only compensation is a commission on the sale of a ~~business;~~business.
- j. An individual who, as an employee, officer or director of, or general partner in, another person and in the course of performance of his duties as such, provides investment advice to such other person, or to entities that are affiliates of such other person, or to employee benefit plans of such other person or its affiliated entities, or, with respect to such employee benefit plans, to employees of such other person or its affiliated ~~entities;~~entities.
- ~~k. Any person who is exempt from registration under the Investment Advisers Act of 1940 by operation of Section 203(b)(3) of said act or by operation of any rule or regulation promulgated by the United States Securities and Exchange Commission under or related to said Section 203(b)(3) provided that any reference in this sub-subsection to any statute, rule or regulation shall be deemed to incorporate said statute, rule or regulation (and any statute, rule or regulation referenced therein) as in effect on June 1, 1988;~~
- l. An employee of a person described in subdivision b., e., f., g., h., or j. of G.S. 78C-2(1) acting on behalf of such person within the scope of his ~~employment;~~employment.
- l 1. An investment adviser who is covered under federal law as defined in subdivision (4) of this section.
- m. Such other persons not within the intent of this subsection as the Administrator may by rule or order designate."

**SECTION 17.** G.S. 78C-16(a) reads as rewritten:

"(a) It is unlawful for any person to transact business in this State as an investment adviser unless:

- (1) The person is registered under this Chapter;
- (2) The person's only clients in this State are investment companies as defined in the Investment Company Act of 1940, other investment advisers, investment advisers covered under federal law, dealers, banks, trust companies, savings institutions, savings and loan associations, insurance companies, employee benefit plans with assets of not less than one million dollars (\$1,000,000), and governmental agencies or instrumentalities, whether acting for themselves or as trustees with investment control, or other institutional investors as are designated by rule or order of the Administrator; ~~or~~
- (3) The person has no place of business in this State, and during the preceding 12-month period has had not more than five clients, other than those specified in subdivision (2) of this subsection, who are residents of the ~~State~~.~~State~~; or
- (4) The person is exempt from registration under the Investment Advisers Act of 1940 by operation of section 203(b)(3) of that act or by operation of any rule or regulation promulgated by the United States Securities and Exchange Commission under or related to section 203(b)(3) provided that any reference in this subsection to any statute, rule, or regulation shall be deemed to incorporate the statute, rule, or regulation (and any statute, rule, or regulation referenced therein) as in effect June 1, 1988.

**SECTION 18.** G.S. 78C-16(a1) reads as rewritten:

"(a1) It is unlawful for any person to transact business in this State as an investment adviser representative unless:

- (1) The person is registered under this Chapter; or
- (2) The person is an investment adviser representative employed by or associated with an investment adviser exempt from registration under ~~subdivision (2) or (3)~~ subdivision (2), (3), or (4) of subsection (a) of this section; or
- (3) The person is an investment adviser representative employed by or associated with an investment adviser covered under federal law that is exempt from the notice filing requirements of G.S. 78C-17(a1)."

**SECTION 19.** G.S. 78C-17(a) reads as rewritten:

"(a) An investment adviser, or investment adviser representative may obtain an initial or renewal registration by filing with the Administrator or the Administrator's designee an application together with a consent to service of process pursuant to G.S. 78C-46(b) and paying any reasonable costs charged by the designee for processing the filings. The application shall contain whatever information the Administrator by rule requires concerning such matters as:

- (1) The applicant's form and place of organization;
- (2) The applicant's proposed method of doing business;
- (3) The qualifications and business history of the applicant; in the case of an investment adviser, the qualifications and business history of any partner, officer, or director, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling the investment adviser;

- (4) Any injunction or administrative order or conviction of a misdemeanor involving a security or any aspect of the securities business and any conviction of a felony;
- (5) The applicant's financial condition and history; and
- (6) Any information to be furnished or disseminated to any client or prospective client.

If no denial order is in effect and no proceeding is pending under G.S. 78C-19, registration becomes effective at noon of the 30th day after an application is filed. The Administrator may by rule or order specify an earlier effective ~~date,~~date and ~~he~~ may by order defer the effective date until noon of the 30th day after the filing of any amendment. Registration of an investment adviser automatically constitutes registration of any investment adviser representative who is a partner, executive officer, or director, or a person occupying a similar status or performing similar functions. After the Administrator institutes a proceeding under G.S. 78C-19 to postpone or deny an application for registration, withdrawal of the application shall be allowed only at such time and under such conditions as the Administrator may by order determine."

**SECTION 20.** G.S. 78C-30(c) reads as rewritten:

"(c) The Administrator may by rule or order prescribe (i) the form and content of financial statements required under this Chapter, (ii) the circumstances under which consolidated financial statements shall be filed, and (iii) whether any required financial statements shall be certified by independent or certified public accountants. All financial statements required to be filed with the Administrator shall be audited and shall be prepared in accordance with generally accepted accounting practices-principles, except where the Administrator shall by rule or order provide otherwise."

**SECTION 21.** G.S. 78C-38(a) reads as rewritten:

"(a) Any person who:

- (1) Engages in the business of advising others, for compensation, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, or who, for compensation and as a part of a regular business, issues or promulgates analyses or reports concerning securities, in violation of G.S. 78C-8(b), ~~G.S. 78C-16(a)~~G.S. 78C-16(a), (a1), or (b) (an action pursuant to a violation of G.S. 78C-16(b) may not be maintained except by those persons who directly received advice from the unregistered investment adviser representative), G.S. 78C-10(b), or of any rule or order under G.S. 78C-30(d) which requires the affirmative approval of sales literature before it is used, or
- (2) Receives, directly or indirectly, any consideration from another person for advice as to the value of securities or their purchase or sale, whether through the issuance of analyses, reports or otherwise and employs any device, scheme, or artifice to defraud such other person or engages in any act, practice or course of business which operates or would operate as a fraud or deceit on such other person, in violation of G.S. 78C-8(a)(1) or (2),

is liable to any person who is given such advice in such violation, who may sue either at law or in equity to recover (i) the consideration paid for such advice together with interest thereon at the legal rate as provided in G.S. 24-1 from the date of payment of the consideration, plus (ii) the actual damages to such person proximately caused by



such violation, plus (iii) costs of the action and reasonable attorneys' fees. An action based on violation of G.S. 78C-8(b) may not prevail where the person accused of the violation sustains the burden of proof that he did not know, and in the exercise of reasonable care could not have known of the existence of the facts by reason of which the liability is alleged to exist."

**SECTION 22.** G.S. 78C-38(b) reads as rewritten:

"(b)

- (1) Every person who directly or indirectly controls a person liable under subsection (a) of this section, including every partner, officer, or director of ~~such a~~ the person, every person occupying a similar status or performing similar functions, ~~every employee or associate of such a person who materially aids in the conduct giving rise to the liability,~~ and every ~~dealer or salesman~~ dealer or salesman who materially aids in ~~such~~ the conduct giving rise to the liability is liable jointly and severally with and to the same extent as ~~he~~ the person did not know, and in the exercise of reasonable care ~~should~~ could not have ~~known~~ known, of the existence of the facts by reason of which the liability is alleged to exist.
- (2) Unless liable under subdivision (1) of this subsection, every employee or associate of a person liable under subsection (a) of this section who materially aids in the conduct giving rise to the liability and every other person who materially aids in the conduct giving rise to the liability is liable jointly and severally with and to the same extent as the person if the employee or associate or other person actually knew of the existence of the facts by reason of which the liability is alleged to exist.
- (3) There is contribution ~~as in cases of contract~~ among the several persons ~~so~~ liable under subdivisions (1) and (2) of this subsection ~~and~~ as provided among tort-feasors pursuant to Chapter 1B of the General Statutes."

**SECTION 23.** G.S. 78C-38(d) reads as rewritten:

"(d) No person may sue under this section more than three years after the rendering of investment advice in violation of ~~this Chapter, except that in the case of a violation of G.S. 78C-8(a)(1) or (2) a person may sue under this section within two years after such person discovers or should have discovered, the facts constituting the violation.~~ G.S. 78C-16.

No person may sue under this section for any other violation of this Chapter more than three years after the person discovers facts constituting the violation, but in any case no later than five years after the rendering of investment advice, except that if a person who may be liable under this section engages in any fraudulent or deceitful act that conceals the violation or induces the person to forgo or postpone commencing an action based upon the violation, the suit may be commenced not later than three years after the person discovers or should have discovered that the act was fraudulent or deceitful."

**SECTION 24.** G.S. 78C-38(g) reads as rewritten:

"(g) The rights and remedies provided by this Chapter are in addition to any other rights or remedies that may exist at law or in equity, but this Chapter does not create any cause of action not specified in this section or G.S. 78C-17(e). If the requirements of

Chapter 1D of the General Statutes are met, punitive damages are available to the extent provided in that Chapter."

**SECTION 25.** G.S. 78C-39 reads as rewritten:

"§ 78C-39. **Criminal penalties.**

(a) Any person who willfully violates any provision of this Chapter except G.S. 78C-8(a)(1), 78C-8(a)(2), 78C-8(b), or 78C-9 is guilty of a Class I felony. ~~or who willfully violates G.S. 78C-9 knowing the statement made to be false or misleading in any material respect, shall upon conviction be punished as a Class I felon.~~

(a1) Any person who willfully violates any rule or order under this Chapter is guilty of a Class I felony. No person may be imprisoned for the violation of any rule if the person proves that the person had no knowledge of the rule. It is an affirmative defense to a charge of violating an order under this Chapter that the person had no knowledge of the order.

(a2) Any person who willfully violates G.S. 78C-8(a)(1), 78C-8(a)(2), or 78C-8(b) shall, upon conviction, be punished as a Class H felon. is guilty of a felony. If the losses caused, directly or indirectly, by the violator for a single act or for a series of related acts in a common scheme or plan is one hundred thousand dollars (\$100,000) or more, the person is guilty of a Class C felony. If the losses caused, directly or indirectly, by the violator for a single act or for a series of related acts in a common scheme or plan is less than one hundred thousand dollars (\$100,000), the person is guilty of a Class H felony.

(a3) Any person who willfully violates G.S. 78C-9 knowing the statement made to be false or misleading in any material respect is guilty of a Class H felony. Any other willful violation of G.S. 78C-9 constitutes a Class 2 misdemeanor.

(a4) A person is guilty of a Class H felony if the person willfully does any of the following for the purpose of interfering with the performance of any audit, examination, or investigation by the Administrator under this Chapter:

- (1) Makes or causes to be made to the Administrator or the Administrator's designated representative any false or misleading oral or written statement.
- (2) Creates, causes to be made, or delivers any record, report, or document knowing that it is false or misleading in any material respect.
- (3) Destroys or alters any record, report, or document.
- (4) Conceals or secretes any record, report, or document.

(b) The Administrator may refer such evidence as is available concerning violations of this Chapter or of any rule or order hereunder to the proper district attorney, who may, with or without such a reference, institute the appropriate criminal proceedings under this Chapter. Upon receipt of ~~such a~~ reference, the district attorney may request that a duly employed attorney of the Administrator prosecute or assist in the prosecution of ~~such the~~ violation or violations on behalf of the State. Upon approval of the Administrator, ~~such the~~ employee may be appointed a special prosecutor for the district attorney to prosecute or assist in the prosecution of ~~such the~~ violations without receiving compensation from the district attorney. Such a special prosecutor shall have all the powers and duties prescribed by law for district attorneys and such other powers and duties as are lawfully delegated to ~~such the~~ special prosecutor by the district attorney for violations of this Chapter.

(c) Nothing in this Chapter limits the power of the State to punish any person for any conduct which constitutes a crime by statute or at common law."

**SECTION 26.** G.S. 78D-24(a) reads as rewritten:

"(a) Any person who willfully violates any provision of this Chapter ~~shall, upon conviction, be punished as a Class I felon~~ is guilty of a felony. If the losses caused by the violation or violations are one hundred thousand dollars (\$100,000) or more, the person is guilty of a Class C felony. If the losses caused by the violation or violations are less than one hundred thousand dollars (\$100,000), the person is guilty of a Class H felony."

**SECTION 27.** G.S. 150B-21.1(a2) reads as rewritten:

"(a2) Notwithstanding the provisions of subsection (a) of this section, the Secretary of State may adopt temporary rules to implement the certification technology provisions of Article 11A of Chapter 66 of the General ~~Statutes and Statutes,~~ to adopt uniform Statements of Policy that have been officially adopted by the North American Securities Administrators Association Association, Inc., for the purpose of promoting uniformity of state securities regulation-regulation, and to adopt rules governing the conduct of hearings pursuant to this Chapter. After having the proposed temporary rule published in the North Carolina Register and at least 30 days prior to adopting a temporary rule pursuant to this subsection, the Secretary shall:

- (1) Notify persons on its mailing list maintained pursuant to G.S. 150B-21.2(d) and any other interested parties of its intent to adopt a temporary rule;
- (2) Accept oral and written comments on the proposed temporary rule; and
- (3) Hold at least one public hearing on the proposed temporary rule.

When the Secretary adopts a temporary rule pursuant to this subsection, the Secretary must submit a reference to this subsection as the Secretary's statement of need to the Codifier of Rules.

Notwithstanding any other provision of this Chapter, the Codifier of Rules shall publish in the North Carolina Register a proposed temporary rule received from the Secretary in accordance with this subsection."

**SECTION 28.** G.S. 143-59.1 reads as rewritten:**"§ 143-59.1. Contracts with certain foreign vendors.**

(a) Ineligible Vendors. – The Secretary of Administration and other entities to which this Article applies shall not contract for goods or services with either of the following:

- (1) A vendor if the vendor or an affiliate of the vendor meets one or more of the conditions of G.S. 105-164.8(b) but refuses to collect the use tax levied under Article 5 of Chapter 105 of the General Statutes on its sales delivered to North Carolina. The Secretary of Revenue shall provide the Secretary of Administration periodically with a list of vendors to which this section applies.
- (2) A vendor if the vendor or an affiliate of the vendor that is incorporated incorporates or reincorporates in a tax haven country after December 31, 2001, but the United States is the principal market for the public trading of the corporation's stock-stock of the corporation incorporated in the tax haven country.

(b) Vendor Certification. – The Secretary of Administration shall require each vendor submitting a bid or contract to certify that the vendor is not an ineligible vendor as set forth in subsection (a) of this section. Any person who submits a certification required by this subsection known to be false shall be guilty of a Class I felony.

- (c) Definitions. – The following definitions apply in this section:
- (1) Affiliate. – As defined in G.S. 105-163.010.
  - (2) Tax haven country. – Means each of the following: Barbados, Bermuda, British Virgin Islands, Cayman Islands, Commonwealth of the Bahamas, ~~Cyprus, Gibraltar, Isle of Man, the Principality of Liechtenstein,~~ the Principality of Monaco, and the Republic of the Seychelles."

**SECTION 29.** Sections 11, 12, 25, and 26 of this act become effective December 1, 2003, and apply to acts committed on or after that date. Section 28 of this act becomes effective October 1, 2003, and applies to contracts entered into on or after that date. The remainder of this act is effective when it becomes law. If House Bill 1151, 2003 Regular Session, becomes law, then the amendment to G.S. 150B-21.1(a2) made by Section 27 of this act is instead made to G.S. 150B-21.1(a)(8).

In the General Assembly read three times and ratified this the 14<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 10:59 a.m. on the 14<sup>th</sup> day of August, 2003.

**H.B. 1294****Session Law 2003-414**

AN ACT TO EXPAND THE QUALIFIED BUSINESS INVESTMENTS TAX CREDIT AND TO EXTEND THE SUNSET ON THE STATE PORTS TAX CREDIT.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 105-163.015 reads as rewritten:

"§ **105-163.015. Sunset.**

This Part is repealed effective for investments made on or after January 1, ~~2004-2007.~~"

**SECTION 2.** G.S. 105-163.010 reads as rewritten:

"§ **105-163.010. Definitions.**

The following definitions apply in this Part:

...

(5a) Granting entity. – Any of the following:

- a. A domestic or foreign corporation that (i) is tax-exempt pursuant to section 501(c)(3) of the Code, (ii) has as its principal purpose the stimulation of the development of the biotechnology industry, and (iii) in furtherance of that purpose has received, or is a successor in interest to an organization that has received, direct appropriations from the State in at least three fiscal years.
- b. A domestic or foreign corporation that meets the following three conditions:
  1. It is tax-exempt pursuant to section 501(c)(3) of the Code, is a private foundation pursuant to section 509 of the Code, or is an affiliate of either of the foregoing.
  2. It has as its principal purpose one of the following: conducting research and development in, or stimulating the development of, electronic, photonic, information, or

- other technologies, which may include investing in companies that provide research, development, products, or services in these technologies.
3. It meets one of the following conditions:
- I. It received direct appropriations in furtherance of one of these purposes from the State in at least three fiscal years.
  - II. It was organized to perform one of these purposes for an organization that meets condition I of this sub-subdivision.
  - III. It is an affiliate of an entity that meets condition II of this sub-subdivision.
- c. An institute that (i) is administratively located within a constituent institution of The University of North Carolina, (ii) is financed in part by a domestic or foreign corporation that is tax-exempt pursuant to section 501(c)(3) of the Code, (iii) has as a principal purpose the stimulation of economic development based on the advancement of science, engineering, and technology, and (iv) funds, either directly or in collaboration with other entities, small businesses engaging in developing technology.
- ...
- (7b) Qualified business. – A qualified business venture, a qualified grantee business, or a qualified licensee business.
- ...
- (9) Qualified grantee business. – A business that (i) is registered with the Secretary of State under G.S. 105-163.013, and (ii) has received during the current year or any of the preceding three years a grant-grant, an investment, or other funding from a federal agency under the Small Business Innovation Research Program administered by the United States Small Business Administration or from a granting entity as defined in this section. ~~an organization that meets any of the following qualifications:~~
- a. ~~It is a domestic or foreign corporation that (i) is tax-exempt pursuant to section 501(e)(3) of the Code, (ii) has as its principal purpose the stimulation of the development of the biotechnology industry, and in furtherance of that purpose has received, or is a successor in interest to an organization that has received, direct appropriations from the State in at least three fiscal years.~~
  - b. ~~It is a domestic or foreign corporation that (i) is tax-exempt pursuant to section 501(e)(3) of the Code, (ii) has as its principal purpose the stimulation of the development of the microelectronics and communication industries, and (iii) in furtherance of that purpose has received, or is a successor in interest to an organization that has received, direct appropriations from the State in at least three fiscal years.~~
  - e. ~~It is an institute that (i) is administratively located within a constituent institution of The University of North Carolina, (ii)~~

~~is financed in part by a domestic or foreign corporation that is tax exempt pursuant to section 501(c)(3) of the Code, (iii) has as a principal purpose the stimulation of economic development based on the advancement of science, engineering, and technology, and (iv) funds, either directly or in collaboration with other entities, small businesses engaging in developing technology.~~

- (9a) Qualified licensee business. – A business that meets all of the following conditions:
- a. It is registered with the Secretary of State under G.S. 105-163.013.
  - b. During its most recent fiscal year before filing an application for registration under G.S. 105-163.013, it had gross revenues, as determined in accordance with generally accepted accounting principles, of one million dollars (\$1,000,000) or less on a consolidated basis.
  - c. It has been certified by a constituent institution of The University of North Carolina or a research university as currently performing under a licensing agreement with the institution or university for the purpose of commercializing technology developed at the institution or university. For the purpose of this section, a research university is an institution of higher education classified as a Doctoral/Research University, Extensive or Intensive, in the most recent edition of "A Classification of Institutions of Higher Education", the official report of The Carnegie Foundation for the Advancement of Teaching."

**SECTION 3.** G.S. 105-163.011 reads as rewritten:

**"§ 105-163.011. Tax credits allowed.**

(a) **No Credit for Brokered Investments.** – No credit is allowed under this section for a purchase of equity securities or subordinated debt if a broker's fee or commission or other similar remuneration is paid or given directly or indirectly for soliciting the purchase.

(b) **Individuals.** – Subject to the limitations contained in G.S. 105-163.012, an individual who purchases the equity securities or subordinated debt of a qualified ~~business venture or a qualified grantee~~ business directly from that business is allowed as a credit against the tax imposed by Part 2 of this Article for the taxable year an amount equal to twenty-five percent (25%) of the amount invested. The aggregate amount of credit allowed an individual for one or more investments in a single taxable year under this Part, whether directly or indirectly as owner of a pass-through entity, may not exceed fifty thousand dollars (\$50,000). The credit may not be taken for the year in which the investment is made but shall be taken for the taxable year beginning during the calendar year in which the application for the credit becomes effective as provided in subsection (c) of this section.

(b1) **Pass-Through Entities.** – This subsection does not apply to a pass-through entity that has committed capital under management in excess of five million dollars (\$5,000,000) or to a pass-through entity that is a qualified ~~grantee business, a qualified business venture, business~~ or a North Carolina Enterprise Corporation. Subject to the limitations provided in G.S. 105-163.012, a pass-through entity that purchases the

equity securities or subordinated debt of a qualified ~~grantee business or a qualified business venture business~~ directly from the business is eligible for a tax credit equal to twenty-five percent (25%) of the amount invested. The aggregate amount of credit allowed a pass-through entity for one or more investments in a single taxable year under this Part, whether directly or indirectly as owner of another pass-through entity, may not exceed seven hundred fifty thousand dollars (\$750,000). The pass-through entity is not eligible for the credit for the year in which the investment by the pass-through entity is made but shall be eligible for the credit for the taxable year beginning during the calendar year in which the application for the credit becomes effective as provided in subsection (c) of this section.

Each individual who is an owner of a pass-through entity is allowed as a credit against the tax imposed by Part 2 of this Article for the taxable year an amount equal to the owner's allocated share of the credits for which the pass-through entity is eligible under this subsection. The aggregate amount of credit allowed an individual for one or more investments in a single taxable year under this Part, whether directly or indirectly as owner of a pass-through entity, may not exceed fifty thousand dollars (\$50,000).

If an owner's share of the pass-through entity's credit is limited due to the maximum allowable credit under this section for a taxable year, the pass-through entity and its owners may not reallocate the unused credit among the other owners.

(c) Application. – To be eligible for the tax credit provided in this section, the taxpayer must file an application for the credit with the Secretary on or before April 15 of the year following the calendar year in which the investment was made. The Secretary may grant extensions of this deadline, as the Secretary finds appropriate, upon the request of the taxpayer, except that the application may not be filed after September 15 of the year following the calendar year in which the investment was made. An application is effective for the year in which it is timely filed. The application shall be on a form prescribed by the Secretary and shall include any supporting documentation that the Secretary may require. If an investment for which a credit is applied for was paid for other than in money, the taxpayer shall include with the application a certified appraisal of the value of the property used to pay for the investment. The application for a credit for an investment made by a pass-through entity must be filed by the pass-through entity.

(d) Penalties. – The penalties provided in G.S. 105-236 apply in this Part."

**SECTION 4.** G.S. 105-163.012(d) reads as rewritten:

"(d) The taxpayer's basis in the equity securities or subordinated debt acquired as a result of an investment in a qualified ~~business venture or qualified grantee business~~ shall be reduced for the purposes of this Article by the amount of allowable credit. 'Allowable credit' means the amount of credit allowed under G.S. 105-163.011 reduced as provided in subsection (c) of this section."

**SECTION 5.** G.S. 105-163.013 reads as rewritten:

"§ **105-163.013. Registration.**

(a) Repealed by Session Laws 1993, c. 443, s. 4.

(b) Qualified Business Ventures. – In order to qualify as a qualified business venture under this Part, a business must be registered with the Securities Division of the Department of the Secretary of State. To register, the business must file with the Secretary of State an application and any supporting documents the Secretary of State may require from time to time to determine that the business meets the requirements for registration as a qualified business venture. A business meets the requirements for

registration as a qualified business venture if all of the following are true as of the date the business files the required application:

- (1) Repealed by Session Laws 1996, Second Extra Session, c. 14, s. 7.
- (1a) Reserved for future codification purposes.
- (1b) Either (i) it was organized after January 1 of the calendar year in which its application is filed or (ii) during its most recent fiscal year before filing the application, it had gross revenues, as determined in accordance with generally accepted accounting principles, of five million dollars (\$5,000,000) or less on a consolidated basis.
- (2) Repealed by Session Laws 1996, Second Extra Session, c. 14, s. 7.
- (3) It is organized to engage primarily in manufacturing, processing, warehousing, wholesaling, research and development, or a service-related industry.
- (4) It does not engage as a substantial part of its business in any of the following:
  - a. Providing a professional service as defined in Chapter 55B of the General Statutes.
  - b. Construction or contracting.
  - c. Selling or leasing at retail.
  - d. The purchase, sale, or development, or purchasing, selling, or holding for investment of commercial paper, notes, other indebtedness, financial instruments, securities, or real property, or otherwise make investments.
  - e. Providing personal grooming or cosmetics services.
  - f. Offering any form of entertainment, amusement, recreation, or athletic or fitness activity for which an admission or a membership is charged.
- (5) It was not formed for the primary purpose of acquiring all or part of the stock or assets of one or more existing businesses.
- (6) It is not a real estate-related business.

The effective date of registration for a qualified business venture whose application is accepted for registration is 60 days before the date its application is filed. No credit is allowed under this Part for an investment made before the effective date of the registration or after the registration is revoked. For the purpose of this Article, if a taxpayer's investment is placed initially in escrow conditioned upon other investors' commitment of additional funds, the date of the investment is the date escrowed funds are transferred to the qualified business venture free of the condition.

To remain qualified as a qualified business venture, the business must renew its registration annually as prescribed by rule by filing a financial statement for the most recent fiscal year showing gross revenues, as determined in accordance with generally accepted accounting principles, of five million dollars (\$5,000,000) or less on a consolidated basis and an application for renewal in which the business certifies the facts required in the original application.

Failure of a qualified business venture to renew its registration by the applicable deadline shall result in revocation of its registration effective as of the next day after the renewal deadline, but shall not result in forfeiture of tax credits previously allowed to taxpayers who invested in the business except as provided in G.S. 105-163.014. The Secretary of State shall send the qualified business venture notice of revocation within 60 days after the renewal deadline. A qualified business venture may apply to have its



registration reinstated by the Secretary of State by filing an application for reinstatement, accompanied by the reinstatement application fee and a late filing penalty of one thousand dollars (\$1,000), within 30 days after receipt of the revocation notice from the Secretary of State. A business that seeks approval of a new application for registration after its registration has been revoked must also pay a penalty of one thousand dollars (\$1,000). A registration that has been reinstated is treated as if it had not been revoked.

If the gross revenues of a qualified business venture exceed five million dollars (\$5,000,000) in a fiscal year, the business must notify the Secretary of State in writing of this fact by filing a financial statement showing the revenues of the business for that year.

(b1) Qualified Licensee Businesses. – In order to qualify as a qualified licensee business under this Part, a business must be registered with the Securities Division of the Department of the Secretary of State. To register, the business must file with the Secretary of State an application and any supporting documents the Secretary of State may require from time to time to determine that the business meets the requirements for registration as a qualified licensee business. The requirements for registration as a qualified licensee business are set out in G.S. 105-163.010.

The effective date of registration for a qualified licensee business whose application is accepted for registration is the filing date of its application. No credit is allowed under this Part for an investment made before the effective date of the registration or after the registration is revoked.

To remain qualified as a qualified licensee business, the business must renew its registration annually as prescribed by rule by filing a financial statement for the most recent fiscal year showing gross revenues, as determined in accordance with generally accepted accounting principles, of one million dollars (\$1,000,000) or less on a consolidated basis and an application for renewal in which the business certifies the facts required in the original application.

Failure of a qualified licensee venture to renew its registration by the applicable deadline results in revocation of its registration effective as of the next day after the renewal deadline, but does not result in forfeiture of tax credits previously allowed to taxpayers who invested in the business except as provided in G.S. 105-163.014. The Secretary of State shall send the qualified licensee business notice of revocation within 60 days after the renewal deadline. A qualified licensee business may apply to have its registration reinstated by the Secretary of State by filing an application for reinstatement, accompanied by the reinstatement application fee and a late filing penalty of one thousand dollars (\$1,000), within 30 days after receipt of the revocation notice from the Secretary of State. A business that seeks approval of a new application for registration after its registration has been revoked must also pay a penalty of one thousand dollars (\$1,000). A registration that has been reinstated is treated as if it had not been revoked.

If the gross revenues of a qualified business venture exceed one million dollars (\$1,000,000) in a fiscal year, the business must notify the Secretary of State in writing of this fact by filing a financial statement showing the revenues of the business for that year.

(c) Qualified Grantee Businesses. – In order to qualify as a qualified grantee business under this Part, a business must be registered with the Securities Division of the Department of the Secretary of State. To register, the business must file with the Secretary of State an application and any supporting documents the Secretary of State

may require from time to time to determine that the business meets the requirements for registration as a qualified grantee business. The requirements for registration as a qualified grantee business are set out in G.S. 105-163.010.~~G.S. 105-163.010(9)~~.

The effective date of registration for a qualified grantee business whose application is accepted for registration is the filing date of its application. No credit is allowed under this Part for an investment made before the effective date of the registration or after the registration is revoked.

To remain qualified as a qualified grantee business, the business must renew its registration annually as prescribed by rule by filing an application for renewal in which the business certifies the facts ~~listed in this subsection~~ demonstrating that it continues to meet the applicable requirements for qualification.

(d) Application Forms; Rules; Fees. – Applications for registration, renewal of registration, and reinstatement of registration under this section shall be in the form required by the Secretary of State. The Secretary of State may, by rule, require applicants to furnish supporting information in addition to the information required by subsections ~~(b)~~(b), (b1), and (c) of this section. The Secretary of State may adopt rules in accordance with Chapter 150B of the General Statutes that are needed to carry out the Secretary's responsibilities under this Part. The Secretary of State shall prepare blank forms for the applications and shall distribute them throughout the State and furnish them on request. Each application shall be signed by the owners of the business or, in the case of a corporation, by its president, vice-president, treasurer, or secretary. There shall be annexed to the application the affirmation of the person making the application in the following form: "Under penalties prescribed by law, I certify and affirm that to the best of my knowledge and belief this application is true and complete." A person who submits a false application is guilty of a Class 1 misdemeanor.

The fee for filing an application for registration under this section is one hundred dollars (\$100.00). The fee for filing an application for renewal of registration under this section is fifty dollars (\$50.00). The fee for filing an application for reinstatement of registration under this section is fifty dollars (\$50.00).

An application for renewal of registration under this section ~~shall~~ must indicate whether the applicant is a minority business, as defined in G.S. 143-128, and ~~shall~~ include a report of the number of jobs the business created during the preceding year that are attributable to investments that qualify under this section for a tax credit and the average wages paid by each job. An application that does not contain this information is incomplete and the applicant's registration may not be renewed until the information is provided.

(e) Revocation of Registration. – If the Securities Division of the Department of the Secretary of State finds that any of the information contained in an application of a business registered under this section is false, it shall revoke the registration of the business. The Secretary of State shall not revoke the registration of a business solely because it ceases business operations for an indefinite period of time, as long as the business renews its registration each year as required under ~~G.S. 105-163.013~~ this section.

(f) Transfer of Registration. – A registration as a qualified ~~business venture or qualified grantee~~ business may not be sold or otherwise transferred, except that if a qualified ~~business venture or qualified grantee~~ business enters into a merger, conversion, consolidation, or other similar transaction with another business and the surviving company would otherwise meet the criteria for being a qualified ~~business venture or qualified grantee~~ business, the surviving company retains the registration

without further application to the Secretary of State. In such a case, the qualified ~~business venture or qualified grantee business~~ shall must provide the Secretary of State with written notice of the merger, conversion, consolidation, or similar transaction and the name, address, and jurisdiction of incorporation or organization of the surviving company.

(g) Report by Secretary of State. – The Secretary of State shall report to the Revenue Laws Study Committee by October 1 of each year all of the businesses that have registered with the Secretary of State as qualified ~~business ventures~~ ventures, qualified licensee businesses, and qualified grantee businesses. The report shall include the name and address of each business, the location of its headquarters and principal place of business, a detailed description of the types of business in which it engages, whether the business is a minority business as defined in G.S. 143-128, the number of jobs created by the business during the period covered by the report, and the average wages paid by these jobs."

**SECTION 6.** G.S. 105-163.014 reads as rewritten:

**"§ 105-163.014. Forfeiture of credit.**

(a) Participation in Business. – A taxpayer who has received a credit under this Part for an investment in a qualified ~~business venture or qualified grantee business~~ forfeits the credit if, within three years after the investment was made, the taxpayer participates in the operation of the qualified ~~business venture or qualified grantee business~~. For the purpose of this section, a taxpayer participates in the operation of a qualified ~~business venture or a qualified grantee business~~ if the taxpayer, the taxpayer's spouse, parent, sibling, or child, or an employee of any of these individuals or of a business controlled by any of these individuals, provides services of any nature to the qualified ~~business venture or qualified grantee business~~ for compensation, whether as an employee, a contractor, or otherwise. However, a person who provides services to a qualified ~~business venture or a qualified grantee business~~, whether as an officer, a member of the board of directors, or otherwise does not participate in its operation if the person receives as compensation only reasonable reimbursement of expenses incurred in providing the services, participation in a stock option or stock bonus plan, or both.

(b) False Application. – A taxpayer who has received a credit under this Part for an investment in a qualified ~~business venture or a qualified grantee business~~ forfeits the credit if the registration of the qualified ~~business venture or qualified grantee business~~ is revoked because information in the registration application was false at the time the application was filed with the Secretary of State.

(c) Repealed by Session Laws 1996, Second Extra Session, c. 14, s. 7.

(d) Transfer or Redemption of Investment. – A taxpayer who has received a credit under this Part for an investment in a qualified ~~business venture or a qualified grantee business~~ forfeits the credit in the following cases:

- (1) Within one year after the investment was made, the taxpayer transfers any of the securities received in the investment that qualified for the tax credit to another person or entity, other than in a transfer resulting from one of the following:
  - a. The death of the taxpayer.
  - b. A final distribution in liquidation to the owners of a taxpayer that is a corporation or other entity.
  - c. A merger, conversion, consolidation, or similar transaction requiring approval by the owners of the qualified ~~business venture or qualified grantee business~~ under applicable State

law, to the extent the taxpayer does not receive cash or tangible property in the merger, conversion, consolidation, or other similar transaction.

- (2) Except as provided in subsection (d1) of this section, within five years after the investment was made, the qualified ~~business venture or qualified grantee~~ business in which the investment was made makes a redemption with respect to the securities received in the investment.

In the event the taxpayer transfers fewer than all the securities in a manner that would result in a forfeiture, the amount of the credit that is forfeited is the product obtained by multiplying the aggregate credit attributable to the investment by a fraction whose numerator equals the number of securities transferred and whose denominator equals the number of securities received on account of the investment to which the credit was attributable. In addition, if the redemption amount is less than the amount invested by the taxpayer in the securities to which the redemption is attributable, the amount of the credit that is forfeited is further reduced by multiplying it by a fraction whose numerator equals the redemption amount and whose denominator equals the aggregate amount invested by the taxpayer in the securities involved in the redemption. The term "redemption amount" means all amounts paid that are treated as a distribution in part or full payment in exchange for securities under section 302(a) of the Code.

(d1) Certain Redemptions Allowed. – Forfeiture of a credit does not occur under this section if a qualified business venture that engages primarily in motion picture film production makes a redemption with respect to securities received in an investment and the following conditions are met:

- (1) The redemption occurred because the qualified business venture completed production of a film, sold the film, and was liquidated.
- (2) Neither the qualified business venture nor a related person continues to engage in business with respect to the film produced by the qualified business venture.

(e) Effect of Forfeiture. – A taxpayer who forfeits a credit under this section is liable for all past taxes avoided as a result of the credit plus interest at the rate established under G.S. 105-241.1(i), computed from the date the taxes would have been due if the credit had not been allowed. The past taxes and interest are due 30 days after the date the credit is forfeited; a taxpayer who fails to pay the past taxes and interest by the due date is subject to the penalties provided in G.S. 105-236."

**SECTION 7.** G.S. 105-130.41(d) reads as rewritten:

"(d) Sunset. – This section is repealed effective for taxable years beginning on or after January 1, ~~2004-2009~~."

**SECTION 8.** G.S. 105-151.22(d) reads as rewritten:

"(d) Sunset. – This section is repealed effective for taxable years beginning on or after January 1, ~~2004-2009~~."

**SECTION 9.** Sections 1 through 6 of this act become effective for taxable years beginning on or after January 1, 2004. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 18<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 1:04 p.m. on the 14<sup>th</sup> day of August, 2003.

**S.B. 119****Session Law 2003-415**

AN ACT TO EXPAND THE TAX CREDITS FOR HISTORIC REHABILITATION BY EXTENDING THE SUNSET ON A PROVISION ALLOWING A PASS-THROUGH ENTITY TO ALLOCATE AMONG ITS OWNERS THE TAX CREDIT FOR INCOME-PRODUCING STRUCTURES AND INCREASING THE AMOUNT THAT MAY BE ALLOCATED TO AN OWNER UNDER THIS PROVISION.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Section 9 of S.L. 1999-389, as amended by Section 19(a) of S.L. 2001-476, reads as rewritten:

"**Section 9.** Sections 1 through 6 of this act are effective for taxable years beginning on or after January 1, 1999. G.S. 105-129.35(b), as amended by this act, is repealed effective January 1, ~~2004,2008~~, for property placed in service on or after that date. Sections 7 and 8 of this act become effective for taxable years beginning on or after January 1, 2000. The remainder of this act is effective when it becomes law."

**SECTION 2.** G.S. 105-129.35(b) reads as rewritten:

"(b) Allocation. – Notwithstanding the provisions of G.S. 105-131.8 and G.S. 105-269.15, a pass-through entity that qualifies for the credit provided in this section may allocate the credit among any of its owners in its discretion as long as ~~the amount of credit allocated to an owner does not exceed the~~ an owner's adjusted basis in the pass-through entity, as determined under the Code, at the end of the taxable year in which the certified historic structure is placed in ~~service-service~~, is at least forty percent (40%) of the amount of credit allocated to that owner. Owners to whom a credit is allocated are allowed the credit as if they had qualified for the credit directly. A pass-through entity and its owners must include with their tax returns for every taxable year in which an allocated credit is claimed a statement of the allocation made by the pass-through entity and the allocation that would have been required under G.S. 105-131.8 or G.S. 105-269.15."

**SECTION 3.** The Department of Revenue shall modify the tax credit form for income tax filers to provide separate lines for each of the tax credits currently aggregated in a single line, so that the Department may capture data about the fiscal impact of the specific credits.

**SECTION 4.** Sections 1, 3, and 4 of this act are effective when it becomes law. Section 2 of this act is effective for taxable years beginning on or after January 1, 2003.

In the General Assembly read three times and ratified this the 10<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 1:05 p.m. on the 14<sup>th</sup> day of August, 2003.

**S.B. 97****Session Law 2003-416**

AN ACT TO MAKE TECHNICAL AND CLARIFYING CHANGES TO THE REVENUE LAWS AND RELATED STATUTES.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Section 10 of S.L. 2002-87 reads as rewritten:

"SECTION 10. Section 9 of this act is effective on and after January 1, 2002, and applies to the estates of decedents dying on or after that ~~date-date~~, except that if the amendments made by Section 9 would create an increase in tax for a decedent dying before August 22, 2002, then the tax may be calculated under the prior law. The remainder of this act is effective when it becomes law. Section 2 of this act applies to credits for buildings ~~that are awarded a federal credit allocation before January 1, 2003, and for which a federal tax credit is first claimed for a taxable year beginning on or after January 1, 2002.~~"

SECTION 2. S.L. 2002-172 is reenacted.

SECTION 3. G.S. 105-129.40 reads as rewritten:

"§ 105-129.40. (See Editor's note for repeal) ~~Definitions applicable to Article.~~ Scope and definitions.

(a) Scope. – G.S. 105-129.41 applies to buildings that are awarded a federal credit allocation before January 1, 2003. G.S. 105-129.42 applies to buildings that are awarded a federal credit allocation on or after January 1, 2003.

(b) Definitions. – The definitions in section 42 of the Code and the following definitions apply in this Article:

- (1) Housing Finance Agency. – The North Carolina Housing Finance Agency established in G.S. 122A-4.
- (2) ~~Pass-Through Entity.~~ Pass-through entity. – Defined in G.S. ~~105-129.35, 105-228.90.~~"

SECTION 4.(a) G.S. 105-163.010(7) reads as rewritten:

"(7) ~~Pass-through entity. – Defined in G.S. 105-228.90. An entity or business, including a limited partnership, a general partnership, a joint venture, a Subchapter S Corporation, or a limited liability company, all of which is treated as owned by individuals or other entities under the federal tax laws, in which the owners report their share of the income, losses, and credits from the entity or business on their income tax returns filed with this State. For the purpose of this Part, an owner of a pass-through entity is an individual or entity who is treated as an owner under the federal tax laws.~~"

SECTION 4.(b) G.S. 105-163.1(9) reads as rewritten:

"(9) ~~Pass-through entity. – Defined in G.S. 105-163.010, G.S. 105-228.90.~~"

SECTION 4.(c) G.S. 105-129.35(c) reads as rewritten:

"(c) Definitions. – The following definitions apply in this section:

- (1) Certified historic structure. – Defined in section 47 of the Code.
- (2) ~~Pass-through entity. – Defined in G.S. 105-228.90. An entity or business, including a limited partnership, a general partnership, a joint venture, a Subchapter S Corporation, or a limited liability company, all of which is treated as owned by individuals or other entities under the federal tax laws, in which the owners report their share of the income, losses, and credits from the entity or business on their income tax returns filed with this State. For the purpose of this section, an owner of a pass-through entity is an individual or entity who is treated as an owner under the federal tax laws.~~
- (3) Qualified rehabilitation expenditures. – Defined in section 47 of the Code."

**SECTION 4.(d)** G.S. 105-228.90(b) is amended by adding a new subdivision to read:

"(b) Definitions. – The following definitions apply in this Article:

...

(4d) Pass-through entity. – An entity or business, including a limited partnership, a general partnership, a joint venture, a Subchapter S Corporation, or a limited liability company, all of which is treated as owned by individuals or other entities under the federal tax laws, in which the owners report their share of the income, losses, and credits from the entity or business on their income tax returns filed with this State. For the purpose of this section, an owner of a pass-through entity is an individual or entity who is treated as an owner under the federal tax laws."

**SECTION 5.(a)** G.S. 105-130.4(a)(1) reads as rewritten:

"(1) ~~'Business—'~~Apportionable income' means all income that is apportionable under the United States Constitution."

**SECTION 5.(b)** G.S. 105-130.4(a)(5) reads as rewritten:

"(5) ~~'Nonbusiness—'~~Nonapportionable income' means all income other than ~~business-apportionable~~ income."

**SECTION 5.(c)** G.S. 105-130.4(c) reads as rewritten:

"(c) Rents and royalties from real or tangible personal property, gains and losses, interest, dividends less the portion deductible under G.S. 105-130.7, patent and copyright royalties and other kinds of income, to the extent that they constitute ~~nonbusiness—nonapportionable~~ income, less related expenses shall be allocated as provided in subsections (d) through (h) of this section."

**SECTION 5.(d)** G.S. 105-130.4(i) reads as rewritten:

"(i) All ~~business—apportionable~~ income of corporations other than public utilities and excluded corporations shall be apportioned to this State by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus twice the sales factor, and the denominator of which is four. Provided, that where the sales factor does not exist, the denominator of the fraction shall be the number of existing factors and where the sales factor exists but the payroll factor or the property factor does not exist, the denominator of the fraction shall be the number of existing factors plus one."

**SECTION 5.(e)** G.S. 105-130.4(j)(2) reads as rewritten:

"(2) Property owned by the corporation is valued at its original cost. Property rented by the corporation is valued at eight times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the corporation less any annual rental rate received by the corporation from subrentals except that subrentals shall not be deducted when they constitute ~~business—apportionable~~ income. Any property under construction and any property the income from which constitutes ~~nonbusiness—nonapportionable~~ income shall be excluded in the computation of the property factor."

**SECTION 5.(f)** G.S. 105-130.4(k)(1) reads as rewritten:

"(1) The payroll factor is a fraction, the numerator of which is the total amount paid in this State during the income year by the corporation as compensation, and the denominator of which is the total compensation paid everywhere during the income year. All compensation paid to

general executive officers and all compensation paid in connection with ~~nonbusiness~~ nonapportionable income shall be excluded in computing the payroll factor. General executive officers shall include the chairman of the board, president, vice-presidents, secretary, treasurer, comptroller, and any other officers serving in similar capacities."

**SECTION 5.(g)** G.S. 105-130.4(l)(1) reads as rewritten:

"(1) The sales factor is a fraction, the numerator of which is the total sales of the corporation in this State during the income year, and the denominator of which is the total sales of the corporation everywhere during the income year. Notwithstanding any other provision under this Part, the receipts from any casual sale of property shall be excluded from both the numerator and the denominator of the sales factor. Where a corporation is not taxable in another state on its ~~business~~ apportionable income but is taxable in another state only because of ~~nonbusiness~~ nonapportionable income, all sales shall be treated as having been made in this State."

**SECTION 5.(h)** G.S. 105-130.4(m) through (s) read as rewritten:

"(m) All ~~business~~ apportionable income of a railroad company shall be apportioned to this State by multiplying the income by a fraction, the numerator of which is the "railway operating revenue" from business done within this State and the denominator of which is the "total railway operating revenue" from all business done by the company as shown by its records kept in accordance with the standard classification of accounts prescribed by the Interstate Commerce Commission.

"Railway operating revenue" from business done within this State shall mean "railway operating revenue" from business wholly within this State, plus the equal mileage proportion within this State of each item of "railway operating revenue" received from the interstate business of the company. "Equal mileage proportion" shall mean the proportion which the distance of movement of property and passengers over lines in this State bears to the total distance of movement of property and passengers over lines of the company receiving such revenue. "Interstate business" shall mean "railway operating revenue" from the interstate transportation of persons or property into, out of, or through this State. If the Secretary of Revenue ~~shall find,~~ finds, with respect to any particular company, that its accounting records are not kept so as to reflect with exact accuracy such division of revenue by State lines as to each transaction involving interstate revenue, the Secretary of Revenue may adopt such regulations, based upon averages, as will approximate with reasonable accuracy the proportion of interstate revenue actually earned upon lines in this State. Provided, that where a railroad is being operated by a partnership which is treated as a corporation for income tax purposes and pays a net income tax to this State, or if located in another state would be so treated and so pay as if located in this State, each partner's share of the net profits shall be considered as dividends paid by a corporation for purposes of this Part and shall be so treated for inclusion in gross income, deductibility, and separate allocation of dividend income.

(n) All ~~business~~ apportionable income of a telephone company shall be apportioned to this State by multiplying the income by a fraction, the numerator of which is gross operating revenue from local service in this State plus gross operating revenue from toll services performed wholly within this State plus the proportion of revenue from interstate toll services attributable to this State as shown by the records of



the company plus the gross operating revenue in North Carolina from other service less the uncollectible revenue in this State, and the denominator of which is the total gross operating revenue from all business done by the company everywhere less total uncollectible revenue. Provided, that where a telephone company is required to keep its records in accordance with the standard classification of accounts prescribed by the Federal Communications Commission the amounts in such accounts shall be used in computing the apportionment fraction as provided in this subsection.

(o) All ~~business-apportionable~~ income of a motor carrier of property shall be apportioned by multiplying the income by a fraction, the numerator of which is the number of vehicle miles in this State and the denominator of which is the total number of vehicle miles of the company everywhere. The words "vehicle miles" shall mean miles traveled by vehicles owned or operated by the company hauling property for a charge or traveling on a scheduled route.

(p) All ~~business-apportionable~~ income of a motor carrier of passengers shall be apportioned by multiplying the income by a fraction, the numerator of which is the number of vehicle miles in this State and the denominator of which is the total number of vehicle miles of the company everywhere. The words "vehicle miles" shall mean miles traveled by vehicles owned or operated by the company carrying passengers for a fare or traveling on a scheduled route.

(q) All ~~business-apportionable~~ income of a telegraph company shall be apportioned by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor and the denominator of which is three.

The property factor shall be as defined in subsection (j) of this section, the payroll factor shall be as defined in subsection (k) of this section, and the sales factor shall be as defined in subsection (l) of this section.

(r) All ~~business-apportionable~~ income of an excluded corporation and of all other public utilities shall be apportioned by multiplying the income by the sales factor as determined under subsection (l) of this section.

(s) All ~~business-apportionable~~ income of an air or water transportation corporation shall be apportioned by a fraction, the numerator of which is the corporation's revenue ton miles in this State and the denominator of which is the corporation's revenue ton miles everywhere. The term "revenue ton mile" means one ton of passengers, freight, mail, or other cargo carried one mile. In making this computation, a passenger is considered to weigh two hundred pounds."

**SECTION 5.(i)** G.S. 105-130.8(a)(5) reads as rewritten:

"(5) For purposes of this section, any income item deductible in determining State net income under the provisions of G.S. 105-130.5 and any ~~nonbusiness-nonapportionable~~ income not allocable to this State under the provisions of G.S. 105-130.4 shall be considered as income not taxable under this Part. The amount of the income item considered income not taxable under this Part is determined after subtracting related expenses for which a deduction was allowed under this Part."

**SECTION 5.(j)** G.S. 105-122(c)(1) reads as rewritten:

"(1) After ascertaining and determining the amount of its capital stock, surplus and undivided profits, as provided herein, every corporation permitted to allocate and apportion its net income for income tax purposes under the provisions of Article 4 of this Chapter shall

apportion ~~said~~ its capital stock, surplus and undivided profits to this State through use of the fraction computed for apportionment of its ~~business-apportionable~~ income under ~~said~~ that Article. A corporation that is subject to franchise tax under this Article but is not subject to income tax under Article 4 of this Chapter must apportion its capital stock, surplus, and undivided profits to this State by using the apportionment formula that would apply to the corporation if it were subject to Article 4.

~~Provided, that although~~ Notwithstanding the foregoing, if a corporation is authorized by the Tax Review Board to apportion its ~~business-apportionable~~ income by use of an alternative formula or method, the corporation may not use ~~such~~ this alternative formula or method for apportioning its capital stock, surplus and undivided profits unless specifically authorized to do so by order of the Tax Review Board.

~~Provided, further, that a~~ A corporation ~~which~~ that is required to pay an income tax to this State on its entire net income shall apportion its entire capital stock, surplus and undivided profits to this State."

**SECTION 6.** G.S. 105-129.42(a)(3) reads as rewritten:

"(a) Definitions. – The following definitions apply in this section:

...

(3) Qualified residential unit. ~~Residential Unit~~. – A housing unit that meets the requirements of section 42 of the Code."

**SECTION 7.** G.S. 105-129.42(g) reads as rewritten:

"(g) Return and Payment. – A taxpayer may claim the credit allowed by this section on a return filed for the taxable year in which the taxpayer receives a carryover allocation of a federal low-income housing credit. The return must state the name and location of the qualified low-income housing development for which the credit is claimed.

If a taxpayer chooses the loan method for receiving the credit allowed under this section, the Secretary must transfer to the Housing Finance Agency the amount of credit allowed the taxpayer. The Agency must loan the taxpayer the amount of the credit on terms consistent with the Qualified Allocation Plan. The Housing Finance Agency is not required to make a loan to a qualified North Carolina low-income housing development until the Secretary transfers the credit amount to the Agency.

If the taxpayer chooses the direct tax refund method for receiving the credit allowed under this section, the Secretary must transfer to the Housing Finance Agency the refundable excess of the credit allowed the taxpayer. The Agency holds the refund due the taxpayer in escrow, with no interest accruing to the taxpayer during the escrow period. The Agency must release the refund to the taxpayer upon the occurrence of the earlier of the following:

- (1) The Agency determines that the taxpayer has complied with the Qualified Allocation Plan and has completed at least fifty percent (50%) of the activities included in the development's eligible basis.
- (2) Within 30 days after the date the development is placed in ~~service~~ date.service."

**SECTION 8.** G.S. 105-129.42(i) reads as rewritten:

"(i) Liability From Forfeiture. – A taxpayer that forfeits all or part of the credit allowed under this section is liable for all past taxes avoided and any refund claimed as

a result of the credit plus interest at the rate established under G.S. 105-241.1(i). The interest ~~rate~~ is computed from the date the Secretary transferred the credit amount to the Housing Finance Agency. The past taxes, refund, and interest are due 30 days after the date the credit is forfeited. A taxpayer that fails to pay the taxes, refund, and interest by the due date is subject to the penalties provided in G.S. 105-236."

**SECTION 9.** G.S. 105-299 reads as rewritten:

"§ **105-299. (Effective for taxes imposed for taxable years beginning on or after July 1, 2003) Employment of experts.**

The board of county commissioners may employ appraisal firms, mapping firms or other persons or firms having expertise in one or more of the duties of the assessor to assist the assessor in the performance of these duties. The county may also assign to county agencies, or contract with State or federal ~~agencies, for~~ agencies for, any duties involved with the approval or auditing of use-value accounts. The county may make available to these persons any information it has that will facilitate the performance of a contract entered into pursuant to this section. Persons receiving this information are subject to the provisions of G.S. 105-289(e) and G.S. 105-259 regarding the use and disclosure of information provided to them by the county. Any person employed by an appraisal firm whose duties include the appraisal of property for the county must be required to demonstrate that he or she is qualified to carry out these duties by achieving a passing grade on a comprehensive examination in the appraisal of property administered by the Department of Revenue. In the employment of these firms, primary consideration must be given to the firms registered with the Department of Revenue pursuant to G.S. 105-289(i). A copy of the specifications to be submitted to potential bidders and a copy of the proposed contract may be sent by the board to the Department of Revenue for review before the invitation or acceptance of any bids. Contracts for the employment of these firms or persons are contracts for personal services and are not subject to the provisions of Article 8, Chapter 143, of the General Statutes."

**SECTION 10.** G.S. 105-358(a) reads as rewritten:

"(a) Waiver. – A tax collector may, upon making a record of the reasons therefor, reduce or waive the ~~ten percent (10%)~~ penalty imposed on giving a worthless check under G.S. 105-357(b)(2)."

**SECTION 11.** G.S. 20-305.2(a)(7) reads as rewritten:

"§ **20-305.2. Unfair methods of competition.**

(a) It is unlawful for any motor vehicle manufacturer, factory branch, distributor, distributor branch, or subsidiary thereof, to directly or indirectly through any subsidiary or affiliated entity, own any ownership interest in, operate, or control any motor vehicle dealership in this State, provided that this section shall not be construed to prohibit:

...  
 (7) The ownership, operation, or control of a dealership that sells primarily recreational vehicles as defined in ~~[G.S.]~~ G.S. 20-4.01 by a manufacturer, factory branch, distributor, or distributor branch, or subsidiary thereof, if the manufacturer, factory branch, distributor, or distributor branch, or subsidiary thereof, owned, operated, or controlled the dealership as of October 1, 2001.

(b) This section does not apply to manufacturers or distributors of trailers or semitrailers that are not recreational vehicles as defined in G.S. 20-4.01."

**SECTION 12.** Subchapter I of Chapter 105 of the General Statutes is amended by adding a new section to read:

**"§ 105-1.1. Supremacy of State Constitution.**

The State's power of taxation is vested in the General Assembly. Under Article V, Section 2(1), of the North Carolina Constitution, this power cannot be surrendered, suspended, or contracted away. In the exercise of this power, the General Assembly may amend or repeal any provision of this Subchapter in its discretion. No provision of this Subchapter constitutes a contract that the provision will remain in effect in future years, and any representation made to the contrary is of no effect."

**SECTION 13.** Section 3.1 of S.L. 2001-347 reads as rewritten:

"**SECTION 3.1.** Part 1 of this act is effective when it becomes law and expires January 1, 2006, unless one of the following occurs: (i) 15 states have ~~signed~~ adopted the Streamlined Sales and Use Tax Agreement, or (ii) states representing a combined resident population equal to at least ten percent (10%) of the national resident population, as determined by the 2000 federal decennial census, have ~~signed~~ adopted the Agreement."

**SECTION 14.(a)** Section 1 of S.L. 1993-577 reads as rewritten:

"**Section 1.** This section applies only if Pender County has provided under G.S. 105-472 that revenues are to be distributed under subdivision (1) of that section. Revenues collected under ~~Articles 39, 40, and 42~~ Subchapter VIII of Chapter 105 of the General Statutes which are received by Pender County and the municipalities within that county under G.S. 105-472, which were initially allocated to Pender County under ~~those Articles,~~ that Subchapter other than revenues which are required by law to be used for certain purposes, may be redistributed among Pender County and those municipalities by agreement adopted under Article 20 of Chapter 160A of the General Statutes. The agreement is effective only if approved by Pender County and all the municipalities in that county entitled to a distribution of those funds for which Pender County determined the allocation method. An election to enter an agreement shall be made annually at the time the county makes its determination to the Department of Revenue for the method of local sales tax distribution under G.S. 105-472."

**SECTION 14.(b)** This section is effective on and after December 1, 2002.

**SECTION 15.** G.S. 105-130.7A(b)(4)b. reads as rewritten:

"(b) Definitions. – The following definitions apply in this section:

...

(4) Related entity. – Any of the following:

...

b. A stockholder, or a stockholder's partnership, limited liability company, estate, trust, or corporation, if the stockholder and the stockholder's partnerships, limited liability companies, estates, trusts, and corporations own in the aggregate at least fifty percent (50%) of the value of the taxpayer's outstanding stock. ~~are component members with respect to the taxpayer."~~

**SECTION 16.(a)** G.S. 105-164.4C(f) reads as rewritten:

"(f) Call Center Cap. – The gross receipts tax on ~~interstate~~ telecommunications service that originates outside this State, terminates in this State, and is provided to a call center that has a direct pay permit issued by the Department under G.S. 105-164.27A may not exceed fifty thousand dollars (\$50,000) a calendar year. This cap applies separately to each legal entity."

**SECTION 16.(b)** G.S. 105-164.27A(b) reads as rewritten:

"(b) Telecommunications Service. – A direct pay permit for telecommunications service authorizes its holder to purchase telecommunications service without paying tax to the seller and authorizes the seller to not collect any tax on a sale to the permit holder. A person who purchases telecommunications service under a direct pay permit must file a return and pay the tax due monthly to the Secretary. A direct pay permit issued under this subsection does not apply to any tax other than the tax on telecommunications service.

A call center that purchases ~~interstate~~ telecommunications service that originates outside this State and terminates in this State may apply to the Secretary for a direct pay permit for telecommunications service. A call center is a business that is primarily engaged in providing support services to customers by telephone to support products or services of the business. A business is primarily engaged in providing support services by telephone if at least sixty percent (60%) of its calls are incoming."

**SECTION 17.** G.S. 105-164.6(f) reads as rewritten:

"(f) Before a person may engage in business in this State selling or delivering tangible personal property for storage, use, or consumption in this State, the person must obtain a certificate of registration from the Department. To obtain a certificate of registration, a person must register with the Department.

The holder of the certificate of registration must pay the tax levied under this Article. A certificate of registration is valid unless it is revoked for failure to comply with the provisions of this Article or becomes void. A certificate issued to a retailer becomes void if, for a period of 18 months, the retailer files no returns or files returns showing no sales."

**SECTION 18.(a)** The lead-in language of G.S. 105-164.13 reads as rewritten:

**"§ 105-164.13. Retail sales and use tax.**

The sale at retail, the use, storage or consumption in this State of the following tangible personal property and services is specifically exempted from the tax imposed by this Article:

..."

**SECTION 18.(b)** The lead-in language of G.S. 105-164.14(b) reads as rewritten:

"(b) Nonprofit Entities and Hospital Drugs. – A nonprofit entity included in the following list is allowed a semiannual refund of sales and use taxes paid by it under this ~~Article, except under G.S. 105-164.4(a)(4a) and G.S. 105-164.4(a)(4e),~~ Article on direct purchases of tangible personal property and services, other than electricity and telecommunications service, for use in carrying on the work of the nonprofit entity:

..."

**SECTION 18.(c)** The lead-in language of G.S. 105-164.14(c) reads as rewritten:

"(c) Certain Governmental Entities. – A governmental entity listed in this subsection is allowed an annual refund of sales and use taxes paid by it under this ~~Article, except under G.S. 105-164.4(a)(4a) and G.S. 105-164.4(a)(4e),~~ Article on direct purchases of tangible personal property and services, other than electricity and telecommunications service. ~~property.~~ Sales and use tax liability indirectly incurred by a governmental entity on building materials, supplies, fixtures, and equipment that become a part of or annexed to any building or structure that is owned or leased by the governmental entity and is being erected, altered, or repaired for use by the

governmental entity is considered a sales or use tax liability incurred on direct purchases by the governmental entity for the purpose of this subsection. A request for a refund must be in writing and must include any information and documentation required by the Secretary. A request for a refund is due within six months after the end of the governmental entity's fiscal year.

This subsection applies only to the following governmental entities:

..."

**SECTION 18.(d)** G.S. 105-164.14(c)(20) reads as rewritten:

"(20) A constituent institution of The University of North Carolina, but only with respect to sales and use tax paid by it for tangible personal property or services that are eligible for refund under this subsection acquired by it through the expenditure of contract and grant funds."

**SECTION 18.(e)** G.S. 105-164.14(e) reads as rewritten:

"(e) State Agencies. – The State is allowed quarterly refunds of local sales and use taxes paid by a State agency on direct purchases of tangible personal property and services and of local sales and use taxes paid indirectly by the State agency on building materials, supplies, fixtures, and equipment that become a part of or annexed to a building or structure that is owned or leased by the State agency and is being erected, altered, or repaired for use by the State agency. This subsection does not apply to purchases for which a State agency is allowed a refund under subsection (c) of this section.

A person who pays local sales and use taxes on building materials or other tangible personal property for a State building project shall give the State agency for whose project the property was purchased a signed statement containing all of the following information:

- (1) The date the property was purchased.
- (2) The type of property purchased.
- (3) The project for which the property was used.
- (4) If the property was purchased in this State, the county in which it was purchased.
- (5) If the property was not purchased in this State, the county in which the property was used.
- (6) The amount of sales and use taxes paid.

If the property was purchased in this State, the person shall attach a copy of the sales receipt to the statement. A State agency to whom a statement is submitted shall verify the accuracy of the statement.

Within 15 days after the end of each calendar quarter, every State agency shall file with the Secretary a written application for a refund of taxes to which this subsection applies paid by the agency during the quarter. The application shall contain all information required by the Secretary. The Secretary shall credit the local sales and use tax refunds directly to the General Fund."

**SECTION 19.(a)** G.S. 105-187.18 reads as rewritten:

"§ 105-187.18. Exemptions.

(a) The taxes imposed by this Article do not apply to:

- (1) Bicycle tires and other tires for vehicles propelled by human power.
- (2) Recapped tires.
- (3) Tires sold for placement on newly manufactured vehicles.

(b) ~~The~~ Except for the exemption for sales a state cannot constitutionally tax, the exemptions in G.S. 105-164.13 and the refunds allowed in G.S. 105-164.14 do not apply to the taxes imposed by this Article."

**SECTION 19.(b)** G.S. 105-187.23 reads as rewritten:

"§ **105-187.23. Exemptions and refunds.**

(a) Exemptions. – Except for the exemption ~~provided in G.S. 105-164.13(17), for sales a state cannot constitutionally tax,~~ the exemptions in G.S. 105-164.13 do not apply to the taxes imposed by this Article.

(b) Refunds. – The refunds allowed in G.S. 105-164.14 do not apply to the taxes imposed by this Article. A person who buys at least 50 new white goods of any kind in the same sale or purchase may obtain a refund equal to sixty percent (60%) of the amount of tax imposed by this Article on the white goods when all of the white goods purchased are to be placed in new or remodeled dwelling units that are located in this State and do not contain the kind of white goods purchased. To obtain a refund, a person must file an application for a refund with the Secretary. The application must contain the information required by the Secretary, be signed by the purchaser of the white goods, and be submitted by the date set by the Secretary."

**SECTION 19.(c)** G.S. 105-187.33 reads as rewritten:

"§ **105-187.33. (Repealed effective January 1, 2010.) Exemptions and refunds.**

~~Except for the exemption for sales a state cannot constitutionally tax, the~~ exemptions in G.S. 105-164.13 do not apply to the taxes imposed by this Article. The refunds allowed in G.S. 105-164.14 do not apply to the taxes imposed by this Article."

**SECTION 20.** G.S. 105-277(d) reads as rewritten:

"(d) All bona fide indebtedness incurred in the purchase of fertilizer and fertilizer materials owing by a taxpayer as principal debtor may be deducted from the total value of all fertilizer and fertilizer materials as are held by such taxpayer for his own use in agriculture during the current year. ~~Provided, further, that from the total value of cotton stored in this State there may be deducted by the owner thereof all bona fide indebtedness incurred directly for the purchase of said cotton and for the payment of which the cotton so purchased is pledged as collateral.~~"

**SECTION 21.** G.S. 105-164.13(5) reads as rewritten:

"(5) Manufactured products produced and sold by manufacturers or producers to other manufacturers, producers, or registered retailers or wholesale merchants, for the purpose of resale except as modified by G.S. ~~105-164.3(23).~~ 105-164.3(51). This exemption does not extend to or include retail sales to users or consumers not for resale."

**SECTION 22.** G.S. 105-164.13B(1) reads as rewritten:

"(1) The following items are subject to tax:

- a. Alcoholic beverages, as defined in G.S. 105-113.68.
- b. Dietary supplements.
- c. Food sold through a vending machine."

**SECTION 23.** G.S. 105-164.14(c)(21) reads as rewritten:

"(21) The University of North Carolina ~~Hospitals at Chapel Hill.~~ Health Care System."

**SECTION 24.(a)** The caption of G.S. 105-164.6 reads as rewritten:

"§ **105-164.6. Imposition of use tax.**"

**SECTION 24.(b)** The caption of G.S. 105-164.8(a) reads as rewritten:

"Sales Tax Obligation."

**SECTION 24.(c)** The caption of G.S. 105-164.8(c) reads as rewritten:  
~~"Use Tax-Local Tax."~~

**SECTION 25.** G.S. 143B-437.54(c) reads as rewritten:

"(c) Conflict of Interest. – It is unlawful for a current or former member of the Committee to, while serving on the Committee or within two years after the end of service on the Committee, provide services for compensation, as an employee, consultant, or otherwise, to any business or a related member of the business that ~~was~~ is awarded a grant under this Part while the ~~former~~ member was ~~is~~ serving on the Committee. Violation of this subsection is a Class 1 misdemeanor. In addition to the penalties imposed under G.S. 15A-1340.23, the court shall also make a finding as to what compensation was received by the defendant for services in violation of this section and shall order the defendant to forfeit that compensation.

If a person is convicted under this section, the person shall not provide services for compensation, as an employee, consultant, or otherwise, to any business or a related member of the business that was awarded a grant under this Part while the ~~former~~ member was serving on the Committee until two years after the person's conviction under this section."

**SECTION 26.** Section 45.12 of S.L. 2003-284 reads as rewritten:

"**SECTION 45.12.** Sections 45.2 through 45.5, Section 45.6, and Sections ~~45.8~~ 45.9 through 45.10 of this act become effective July 15, 2003. Sections 45.6A, 45.7, 45.8, and 45.11 become effective October 1, 2003. Section 45.5A and Section 45.6B become effective January 1, 2004. The remainder of this part is effective when it becomes law."

**SECTION 27.(a)** G.S. 105-469, as amended by S.L. 2003-284, reads as rewritten:

"§ **105-469. Secretary to collect and administer local sales and use tax.**

(a) The Secretary shall collect and administer a tax levied by a county pursuant to this Article. As directed by G.S. 105-164.13B, taxes levied by a county on food are administered as if they were levied by the State under Article 5 of this Chapter. The Secretary ~~must~~ must, on a monthly basis, distribute local taxes levied on food to the taxing counties ~~in accordance with G.S. 105-472 by including the taxes on food with local tax revenue that is not attributable to a particular county~~ as follows:

- (1) The Secretary must allocate one-half of the net proceeds on a per capita basis according to the most recent annual population estimates certified to the Secretary by the State Budget Officer. The Secretary must then adjust the amount allocated to each county as provided in G.S. 105-486(b).
- (2) The Secretary must allocate the remaining net proceeds proportionately to each taxing county based upon the amount of sales tax on food collected in the taxing county in the 1997-1998 fiscal year under Article 39 of this Chapter relative to the total amount of sales tax on food collected in all taxing counties in the 1997-1998 fiscal year under Article 39 of this Chapter.

(b) The Secretary shall require retailers who collect use tax on sales to North Carolina residents to ascertain the county of residence of each buyer and provide that information to the Secretary along with any other information necessary for the Secretary to allocate the use tax proceeds to the correct taxing county."



**SECTION 27.(b)** Section 45.11(c) of S.L. 2003-284 reads as rewritten:

"**SECTION 45.11.(c)** The first paragraph of Section 9 of Chapter 1096 of the 1967 Session Laws, as amended, is amended by adding the following sentence immediately after the first sentence in that paragraph:

"The Secretary of Revenue shall distribute the taxes levied by Mecklenburg County on food to Mecklenburg County and municipalities within Mecklenburg County in accordance with ~~G.S. 105-472 by including the taxes on food with local tax revenue that is not attributable to a particular county.~~G.S. 105-469(a)."

**SECTION 28.** The Department of Revenue may draw up to twenty-five thousand dollars (\$25,000) for the 2003-2004 fiscal year from the local taxes collected on food to pay for the programming costs associated with the distribution of the local taxes collected on food.

**SECTION 29.(a)** Section 2.2(h) of S.L. 2003-284 reads as rewritten:

"**SECTION 2.2.(h)** Notwithstanding the provisions of G.S. 62A-22(c), 62A-24(d), ~~62A-25, and 62A-26, and 62A-25,~~ the following shall be transferred from Wireless Fund created in G.S. 62A-22(c) to the State Controller to be deposited in Nontax Budget Code 19978 (Intra State Transfers) to support General Fund appropriations for the 2003-2005 fiscal biennium: (i) sums equal to the lesser of thirty-three million dollars (\$33,000,000) or the aggregated all-service charges remitted to the Wireless Fund during the 2003-2004 fiscal year, year less the administrative fee allowed under G.S. 62A-26; and (ii) the sum of twenty-five million dollars (\$25,000,000) from ~~the services charges remitted to the Wireless Fund during the 2004-2005 fiscal year.~~"

**SECTION 29.(b)** G.S. 62A-23(b) reads as rewritten:

"(b) The service charge may be adjusted by the Board beginning July 1, 2000 and every two years thereafter. The Board is to set the service charge at such a rate as to ensure full recovery for CMRS providers and for PSAPs, over a reasonable period of time, of the costs associated with developing and maintaining a wireless Enhanced 911 system. If necessary to ensure full recovery of costs for both CMRS providers and PSAPs over a reasonable period of time, the Board ~~may, at the time it adjusts the service charge, also may~~ adjust the allocation percentages set forth in G.S. 62A-25(a) and G.S. ~~62A-25(b)-62A-25(b),~~ or reallocate funds comprising the Wireless Fund, provided, however, that any adjustment or reallocation shall be consistent with the requirements of the FCC Order."

**SECTION 30.** Section 27 of this act becomes effective October 1, 2003. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 17<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 1:06 p.m. on the 14<sup>th</sup> day of August, 2003.

## H.B. 1301

## Session Law 2003-417

AN ACT TO AUTHORIZE LOCAL GOVERNMENTS THAT ARE JOINTLY UNDERTAKING A DEVELOPMENT PROJECT TO ENTER INTO AGREEMENTS TO FINANCE THE PROJECT.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Part 1 of Article 20 of Chapter 160A of the General Statutes is amended by adding a new section to read:

**"§ 160A-466. Revenue and expenditures for joint undertakings.**

When two or more units of local government are engaged in a joint undertaking, they may enter into agreements regarding financing, expenditures, and revenues related to the joint undertaking. Funds collected by any participating unit of government may be transferred to and expended by any other unit of government in a manner consistent with the agreement. An agreement regarding expenses and revenues may be of reasonable duration not to exceed 99 years."

**SECTION 2.** Article 2 of Chapter 158 of the General Statutes is amended by adding a new section to read:

**"§ 158-7.3. Interlocal agreements concerning economic development.**

(a) Any two or more units of local government may enter into contracts or agreements to execute undertakings pursuant to Part 1 of Article 20 of Chapter 160A of the General Statutes, under which each participating local government agrees to provide resources for the development of an industrial or commercial park or industrial or commercial site pursuant to G.S. 158-7.1. In consideration for that participation, the unit or units in which the park or site is located may agree to place the proceeds from some or all property taxes levied on the park or site into a common fund or transfer those proceeds to a nonprofit corporation or other entity. The proceeds placed into the common fund or transferred to the other entity may then be distributed among the participating local governments as provided in the contract or agreement.

(b) Any undertaking entered into pursuant to this section may be for that period that is agreed to by the participating local governments, up to a maximum of 40 years.

(c) Any undertaking entered into pursuant to this section is binding upon each participating local government for the duration of the contract or agreement. Any participating local government may bring an action to specifically enforce the contract or agreement."

**SECTION 3.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 17<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 1:07 p.m. on the 14<sup>th</sup> day of August, 2003.

**S.B. 168****Session Law 2003-418****AN ACT TO PROVIDE FOR THE CREATION OF ECONOMIC DEVELOPMENT AND TRAINING DISTRICTS.**

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Article 16 of Chapter 153A of the General Statutes is amended by adding a new Part to read:

**"Part 3. Economic Development and Training Districts.****"§ 153A-317.11. Purpose for which districts may be created.**

The board of commissioners of any county may define a county economic development and training district, as provided in this Part, to finance, provide, and maintain for the district a skills training center in cooperation with its community college branch in or for the county to prepare residents of the county to perform manufacturing, research and development, and related service and support jobs in the pharmaceutical, biotech, life sciences, chemical, telecommunications, and electronics industries, and allied, ancillary, and subordinate industries, to provide within the district

any of the education, training, and related services, facilities, or functions that a county or a city is authorized by general law to provide, finance, or maintain, and to promote economic development in the county. The skills training center and related services shall be financed, provided, or maintained in the district either in addition to or to a greater extent than training facilities and services are financed, provided, or maintained in the entire county.

**"§ 153A-317.12. Definition of economic development and training district.**

(a) Standards. – The board of commissioners may by resolution establish an economic development and training district for an area or areas of the county that, at the time the resolution is adopted, meet the following standards:

- (1) All of the real property in the district primarily is being used for, or is subject to, a declaration of covenants, conditions, and restrictions that limits its use primarily to biotech processing, chemical manufacturing, pharmaceutical manufacturing, electronics manufacturing, telecommunications manufacturing, and any allied, ancillary, or subordinate uses including, without limitation, any research and development facility, headquarters or office, temporary lodging facility, restaurant, warehouse, or transportation or distribution facility.
- (2) The district includes at least two pharmaceuticals manufacturing or bioprocessing facilities occupying sites in the district containing in the aggregate at least 425 acres owned by publicly held corporations.
- (3) The bioprocessing and pharmaceuticals manufacturing facilities in the district employ in the aggregate at least 1,600 persons.
- (4) The district includes an industrial park consisting of at least 60 acres within a noncontiguous parcel of at least 625 acres now or formerly owned by an airport authority.
- (5) The district's zoning classifications permit the uses listed in this section.
- (6) All real property in the district is either zoned for or is being used primarily for pharmaceutical, biotech, life sciences, chemical, telecommunications, or electronics manufacturing or processing or allied, ancillary, or subordinate uses.
- (7) The district shall include a skills training center situated on a tract containing not less than eight acres, which facility shall be designed and staffed to provide relevant training to prepare existing or prospective employees of targeted industries for jobs in one or more of the pharmaceutical, biotech, life sciences, chemical, telecommunications, and electronics industries and allied, ancillary, or subordinate industries. The training center shall be completed within a reasonable period after the creation of the district.
- (8) At the date of creation, no part of the district lies within the boundaries of any incorporated city or town.
- (9) There exists a uniform set of covenants, conditions, restrictions, and reservations that applies to all real property in the district other than property owned by the federal, State, or local government.
- (10) There exists in the district an association of owners and tenants to which owners of real property representing at least fifty percent (50%) of the assessed value of real property in the district belong, which

association can make the recommendations provided for in G.S. 153A-317.13.

- (11) A petition requesting creation of the district signed by owners of real property in the district who own real and personal property representing at least fifty percent (50%) of the total assessed value of the real and personal property in the district has been presented to the board of commissioners. In determining the assessed value of real and personal property in the district and the owners of real property, there shall be excluded: (i) real property exempted from taxation and real property classified and excluded from taxation and (ii) the owners of such exempted or classified and excluded property. Assessed value shall mean the most recent values determined by the county for the imposition of taxes on real and personal property.

(b) Findings. – The board of commissioners may establish an economic development and training district if, upon the information and evidence it receives, the board determines that:

- (1) The proposed district meets the standards set forth in subsection (a) of this section;
- (2) Economic development of the county will be served by providing selected skills training in a facility designed specifically to address the needs of targeted industries such as pharmaceuticals, biotech processing, telecommunications, electronics, and allied, ancillary, or subordinate supplies or services to induce existing industries and targeted industries to improve and expand their facilities and new industries to locate facilities in the district, thereby providing employment opportunities for the residents of the county;
- (3) It is impossible or impractical to provide training facilities and services on a countywide basis to all existing and future employers in the county to the same extent as such training services are intended to be furnished within the district; and
- (4) It is economically feasible to provide the proposed training facilities and services in the district without unreasonable or burdensome tax levies.

(c) Report. – Before the public hearing required by subsection (d) of this section, the board of commissioners shall cause to be prepared a report containing all of the following:

- (1) A map of the proposed district showing its proposed boundaries.
- (2) A statement showing that the proposed district meets the standards set out in subsection (a) of this section.
- (3) A plan for providing the skills training center and training services to the district.

The report shall be available for public inspection in the office of the clerk to the board for at least four weeks before the date of the public hearing.

(d) Hearing and Notice. – The board of commissioners shall hold a public hearing before adopting any resolution defining a district under this section. Notice of the hearing shall state the date, hour, and place of the hearing and its subject and shall include a map of the proposed district and a statement that the report required by subsection (c) of this section is available for public inspection in the office of the clerk to the board. The notice shall be published at least once not less than one week before

the date of the hearing. In addition, it shall be mailed at least four weeks before the date of the hearing by any class of U.S. mail which is fully prepaid to the owners as shown by the county tax records as of the preceding January 1 (and at the address shown thereon) of all property located within the proposed district. The person designated by the board to mail the notice shall certify to the board that the mailing has been completed, and the certificate shall be conclusive in the absence of fraud.

(e) Effective Date. – The resolution creating a district shall take effect at the beginning of the fiscal year commencing after its passage or such other date as shall be determined by the board of commissioners.

**"§ 153A-317.13. Advisory committee.**

(a) Creation. – The board of commissioners, in the resolution establishing an economic development and training district, shall also provide for an advisory committee for the district. The committee shall consist of five members, serving terms as set forth in the resolution. The resolution shall provide for the appointment or designation of a chair. The board of commissioners shall appoint the members of the advisory committee as provided in this section.

(b) Membership. – Three of the five committee members shall represent the association of owners and tenants, as required by G.S. 153A-317.12(a)(10), and two members shall represent the county. Before making the appointments representing the association, the board of commissioners shall request the association to submit a list of persons to be considered for appointment to the committee. The association of owners and tenants shall submit at least two names for each appointment to be made and the board of commissioners shall make the appointments to the committee representing the association from the list of persons submitted to it by the association. Whenever a vacancy occurs on the committee in a position filled by an appointment by the board of commissioners representing the association of owners and tenants, the board, before filling the vacancy, shall request the association to submit the names of at least two persons to be considered for the vacancy, and the board shall fill the vacancy by appointing one of the persons so submitted.

(c) Advisory Duties. – Each year, before adopting the budget for the district and levying the tax for the district, the board shall request recommendations from the advisory committee as to the type and level of services, facilities, or functions to be provided for the district for the ensuing years. The board of commissioners shall, to the extent permitted by law, expend the proceeds of any tax levied for the district in the manner recommended by the advisory committee.

**"§ 153A-317.14. Extension of economic development and training districts.**

(a) Standards. – A board of commissioners may by resolution annex territory to an economic development and training district upon finding that:

- (1) The conditions, covenants, restrictions, and reservations required by G.S. 153A-317.12(a)(1) that apply to all real property in the district, other than property owned by the federal, State, or local government, also apply or will apply to the property, other than property owned by the federal government, to be annexed.
- (2) One hundred percent (100%) of the owners of real property in the area to be annexed have petitioned for annexation.
- (3) The district, following the annexation, will continue to meet the standards set out in G.S. 153A-317.12(a).
- (4) The reasonably anticipated training needs of the existing companies in the area to be annexed and of new companies that may locate within

the expanded area can be met by the skills training facility located in the district.

- (5) The area to be annexed is either contiguous to a lot, parcel, or tract of land in the district or at least 500 acres in the aggregate counting all parcels proposed for annexation. A property shall, for purposes of this section, be deemed to be contiguous notwithstanding that it may be separated from other property by a street, road, highway, right-of-way, or easement.
- (6) If any of the area proposed to be annexed to the district is wholly or partially within the extraterritorial jurisdiction of a municipality, then it shall be necessary to first obtain the affirmative vote of a majority of the members of the governing body of the municipality before the area can be annexed.

(b) Report. – Before the public hearing required by subsection (c) of this section, the board shall cause to be prepared a report containing all of the following:

- (1) A map of the district and the territory proposed to be annexed showing the present and proposed boundaries of the district.
- (2) A statement that the area to be annexed meets the standards and requirements of subsection (a) of this section.

The report shall be available for public inspection in the office of the clerk to the board for at least four weeks before the date of the public hearing.

(c) Hearing and Notice. – The board shall hold a public hearing before adopting any resolution extending the boundaries of a district. Notice of the hearing shall state the date, hour, and place of the hearing and its subject and shall include a statement that the report required by subsection (b) of this section is available for inspection in the office of the clerk to the board. The notice shall be published at least once not less than four weeks before the hearing. In addition, the notice shall be mailed at least four weeks before the date of the hearing by any class of U.S. mail which is fully prepaid to the owners as shown by the county tax records as of the preceding January 1 (and at the address shown thereon) of all property located within the area to be annexed. The person designated by the board to mail the notice shall certify to the board that the mailing has been completed, and the certificate shall be conclusive in the absence of fraud.

(d) Effective Date. – The resolution extending the boundaries of the district shall take effect at the beginning of the fiscal year commencing after its passage or such other date as shall be determined by the board.

**"§ 153A-317.15. Required provision or maintenance of skills training center.**

(a) New District. – When a county creates a district, it shall provide, maintain, or let contracts for the skills training center for which the district is being taxed within a reasonable time, not to exceed one year, after the effective date of the creation of the district.

(b) Extended District. – When a territory is annexed to a district, the county shall provide, maintain, or let contracts for any necessary additions to the skills training center to provide the same training provided throughout the district to existing and new industries in the area annexed to the district within a reasonable time, not to exceed one year, after the effective date of the annexation.

**"§ 153A-317.16. Abolition of economic development and training districts.**

A board of county commissioners may by resolution abolish a district upon finding that a petition requesting abolition, signed by at least fifty percent (50%) of the owners

of real property in the district who own at least fifty percent (50%) of the real and personal property in the district based upon the most recent valuation thereof, has been submitted to the board and that there is no longer a need for such district. In determining the total real and personal property in the district and the number of owners of real and personal property, there shall be excluded: (i) property exempted from taxation and property classified and excluded from taxation and (ii) the owners of such exempted or classified and excluded property. The board shall hold a public hearing before adopting a resolution abolishing a district. Notice of the hearing shall state the date, hour, and place of the hearing and its subject and shall be published at least once not less than one week before the date of the hearing. The abolition of any district shall take effect at the end of a fiscal year following passage of the resolution, as determined by the board.

**"§ 153A-317.17. Taxes authorized; rate limitation.**

A county may levy property taxes within an economic development and training district, in addition to those levied throughout the county, in order to finance, provide, or maintain for the district a skills training center provided therein in addition to or to a greater extent than worker training facilities provided for the entire county. In addition, a county may allocate to a district any other revenues whose use is not otherwise restricted by law. The proceeds of taxes within a district may be expended only to pay annual debt service on up to one million two hundred thousand dollars (\$1,200,000) of the capital costs of a skills training center provided for the district and any other services or facilities provided by a county in response to a recommendation of an advisory committee.

Property subject to taxation in a newly established district or in an area annexed to an existing district is subject to taxation by the county as of the preceding January 1.

Such additional property taxes may not be levied within any district established pursuant to this Article in excess of a rate of eight cents (8¢) on each one hundred dollars (\$100.00) value of property subject to taxation."

**SECTION 2.(a)** If the board of commissioners of Johnston County elects to establish an economic development and training district under Part 3 of Article 16 of Chapter 153A of the General Statutes, as created by this act, the district as initially established shall consist of the following real property owned by Bayer Corporation, Novo Nordisk Pharmaceutical Industries, Inc., Fresenius Kabi Clayton, L.P., and the Johnston County Airport Authority:

- (1) Bayer Corporation. – All of the property shown on those deeds recorded in Book 737, Page 179; Book 737, Page 180; Book 739, Page 96; Book 1328, Page 644; and Book 1328, Page 648 in the office of the Register of Deeds of Johnston County.
- (2) Novo Nordisk Pharmaceutical Industries, Inc. – All of the property shown on those certain plats of survey recorded in Plat Book 34, Page 279 and Plat Book 46, Page 431 and as shown in that certain deed recorded in Book 1389, Page 114 in the office of the Register of Deeds of Johnston County.
- (3) Fresenius Kabi Clayton, L.P. – All of the property shown on that plat of survey recorded in Plat Book 28, Page 173 in the office of the Register of Deeds of Johnston County.
- (4) Johnston County Airport Authority. – All of that property known as North Aviation Industrial Park described in that certain deed recorded in Book 1433, Page 440 in the office of the Register of Deeds of Johnson County.

**SECTION 2.(a1)** No property in Johnston County located within an Economic Development and Training District under Part 3 of Article 16 of Chapter 153A of the General Statutes may be annexed pursuant to Part 2 or Part 3 of Article 4A of Chapter 160A of the General Statutes."

**SECTION 2.(b)** This section applies only to Johnston County.

**SECTION 3.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 19<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 1:08 p.m. on the 14<sup>th</sup> day of August, 2003.

**H.B. 797****Session Law 2003-419**

AN ACT DIRECTING THE STATE BOARD OF EDUCATION TO ASSIST LOCAL SCHOOL ADMINISTRATIVE UNITS ON THE IMPLEMENTATION OF THE NO CHILD LEFT BEHIND ACT OF 2001.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 115C-12 is amended by adding a new subdivision to read:

"§ 115C-12. **Powers and duties of the Board generally.**

The general supervision and administration of the free public school system shall be vested in the State Board of Education. The State Board of Education shall establish policy for the system of free public schools, subject to laws enacted by the General Assembly. The powers and duties of the State Board of Education are defined as follows:

...

(30a) Duty to Assist Schools in Meeting Adequate Yearly Progress. – The State Board of Education shall:

- a. Identify which schools are meeting adequate yearly progress with subgroups as specified in the No Child Left Behind Act of 2001;
- b. Study the instructional, administrative, and fiscal practices and policies employed by the schools selected by the State Board of Education that are meeting adequate yearly progress specified in the No Child Left Behind Act of 2001;
- c. Create assistance models for each subgroup based on the practices and policies used in schools that are meeting adequate yearly progress. The schools of education at the constituent institutions of The University of North Carolina, in collaboration with the University of North Carolina Center for School Leadership Development, shall assist the State Board of Education in developing these models; and
- d. Offer technical assistance based on these assistance models to local school administrative units not meeting adequate yearly progress, giving priority to those local school administrative units with high concentrations of schools that are not meeting adequate yearly progress. The State Board of Education shall determine the number of local school administrative units that



can be served effectively in the first two years. This technical assistance shall include peer assistance and professional development by teachers, support personnel, and administrators in schools with subgroups that are meeting adequate yearly progress.

...."

**SECTION 2.** The State Board of Education and the Department of Public Instruction shall report to the Joint Legislative Education Oversight Committee by June 15, 2004, and December 15, 2005, on the implementation of Section 1 of this act. The report shall include:

- (1) The number and locations of schools meeting adequate yearly progress with the subgroups specified in the No Child Left Behind Act of 2001;
- (2) The assistance models developed for each subgroup;
- (3) Technical assistance provided to a local school administrative unit or a school; and
- (4) The need for additional resources to implement this act on a statewide basis.

**SECTION 3.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 18<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 1:09 p.m. on the 14<sup>th</sup> day of August, 2003.

**S.B. 550**

**Session Law 2003-420**

**AN ACT TO IMPROVE AND STRENGTHEN CREMATION LAW IN NORTH CAROLINA AND TO IMPROVE AND MAKE TECHNICAL CORRECTIONS TO THE FUNERAL LAW.**

*The General Assembly of North Carolina enacts:*

**SECTION 1.** The name of the North Carolina Board of Mortuary Science is changed to the North Carolina Board of Funeral Service. The Revisor of Statutes is authorized to substitute the term "Board of Funeral Service" for the term "Board of Mortuary Science" wherever that term appears in the General Statutes.

**SECTION 2.** Article 13C of Chapter 90 of the General Statutes reads as rewritten:

"Article 13C.  
"Cremations.

**"§ 90-210.40. Short title.**

This Article shall be known and may be cited as the North Carolina Crematory Act.

**"§ 90-210.41. Definitions.**

As used in this Article, unless the context requires otherwise:

- (1) ~~"Authorizing agent" means a person legally entitled to order, or carry out the legal order for, the cremation of human remains. In the case of indigents or any other individuals whose final disposition is the responsibility of the State, a public official charged with arranging the final disposition of the deceased, if legally authorized, may serve as the authorizing agent. In the case of individuals whose death occurred in a nursing home or other private institution, and in which the~~

- ~~institution is charged with making arrangements for the final disposition of the deceased, a representative of the institution, if legally authorized, may serve as the authorizing agent.~~
- (2) ~~"Board" means the North Carolina State Board of Mortuary Science.~~
- (3) ~~Repealed by Session Laws 1997-399, s. 16.~~
- (4) ~~"Closed container" means any container in which cremated remains can be placed and closed in a manner so as to prevent leakage or spillage of cremated remains or the entrance of foreign material.~~
- (5) ~~"Cremated remains" means all human remains recovered after the completion of the cremation process, including pulverization which leaves only bone fragments reduced to unidentifiable dimensions.~~
- (6) ~~"Cremation" means the technical process, using heat, that reduces human remains to bone fragments.~~
- (7) ~~"Cremation chamber" means the enclosed space within which the cremation process takes place. Cremation chambers covered by this Article shall be used exclusively for the cremation of human remains.~~
- (8) ~~"Cremation container" means the container in which the human remains are placed in the cremation chamber for a cremation. A cremation container must meet all of the standards established by the rules adopted by the Board.~~
- (9) ~~"Crematory" means the building or portion of a building that houses the cremation chamber and that may house the holding facility, business office or other part of the crematory business. A crematory must comply with any applicable public health laws and rules and must contain the equipment and meet all of the standards established by the rules adopted by the Board.~~
- (10) ~~"Crematory authority" means the North Carolina Crematory Authority.~~
- (11) ~~"Crematory operator" means the legal entity which is licensed by the Board to operate a crematory and perform cremations.~~
- (12) ~~Repealed by Session Laws 1997-399, s. 16.~~
- (13) ~~"Human remains" means the body of a deceased person, including a human fetus, regardless of the length of gestation, or part of a body that has been removed from a living or deceased person.~~
- (14) ~~"Niche" means a compartment or cubicle for the memorialization or permanent placement of an urn containing cremated remains.~~
- (1) 'Authorizing agent' means a person legally entitled to authorize the cremation of human remains in accordance with G.S. 90-210.44.
- (2) 'Board' means the North Carolina Board of Funeral Service.
- (3) 'Body parts' means limbs or other portions of the anatomy that are removed from a person or human remains for medical purposes during treatment, surgery, biopsy, autopsy, or medical research; or human bodies or any portion thereof that have been donated to science for medical purposes.
- (4) 'Casket' means a rigid container that is designed for the encasement of human remains and that is usually constructed of wood, metal, or other material and ornamented and lined with fabric, and which may or may not be combustible.

- (5) 'Certificate of cremation' means a certificate provided by the crematory manager who performed the cremation containing, at a minimum, the following information:
- a. Name of decedent;
  - b. Date of cremation;
  - c. Name and address of crematory; and
  - d. Signature of crematory manager or person acting as crematory manager.
- (6) 'Cremated remains' means all human remains recovered after the completion of the cremation process, including pulverization which leaves only bone fragments reduced to unidentifiable dimensions.
- (7) 'Cremation' means the technical process, using intense heat and flame, that reduces human remains to bone fragments. Cremation includes the processing and may include the pulverization of the bone fragments.
- (8) 'Cremation chamber' means the enclosed space within which the cremation process takes place. Cremation chambers covered by this Article shall be used exclusively for the cremation of human remains.
- (9) 'Cremation container' means the container in which the human remains are transported to the crematory or placed therein upon arrival for storage and placement in a cremation chamber for cremation. A cremation container shall comply with all of the following standards:
- a. Be composed of readily combustible materials suitable for cremation;
  - b. Be able to be closed in order to provide a complete covering for the human remains;
  - c. Be resistant to leakage or spillage;
  - d. Be rigid enough for handling with ease;
  - e. Be able to provide protection for the health, safety, and personal integrity of crematory personnel; and
  - f. Be easily identifiable. The covering of the cremation container shall contain the following information:
    1. The name of the decedent;
    2. The date of death;
    3. The sex of the decedent; and
    4. The age at death of the decedent.
- (10) 'Cremation interment container' means a rigid outer container composed of concrete, steel, fiberglass, or some similar material in which an urn is placed prior to being interred in the ground and which is designed to withstand prolonged exposure to the elements and to support the earth above the urn.
- (11) 'Crematory' or 'crematorium' means the building or buildings or portion of a building on a single site that houses the cremation equipment, the holding and processing facilities, the business office, and other parts of the crematory business. A crematory must comply with all applicable public health and environmental laws and rules and must contain the equipment and meet all of the standards established by the rules adopted by the Board.
- (12) 'Crematory licensee' means the individual or legal entity that is licensed by the Board to operate a crematory and perform cremations.

- (13) 'Crematory manager' means the person who is responsible for the management and operation of the crematory. A crematory manager must either be licensed to practice funeral directing or funeral service and be qualified as a crematory technician or must obtain a crematory manager permit issued by the Board. In order to receive a crematory manager permit, a person must:
- a. Be at least 18 years of age.
  - b. Be of good moral character.
  - c. Be qualified as a crematory technician.
- Notwithstanding any other provision of law, a crematory that is licensed by the Board prior to January 1, 2004, and as of that date is not managed by a crematory manager who is licensed to practice funeral directing or funeral service, or who has a crematory manager permit, may continue to be managed by a crematory manager who is not licensed to practice funeral directing or funeral service or who does not have a crematory manager permit so long as there is no sale, transfer, devise, bequest, gift, or any other disposal of a controlling interest in the crematory.
- (14) 'Crematory technician' means any employee of a crematory licensee who has a certificate confirming that the crematory technician has attended a training course approved by the Board. The Board shall recognize the cremation certificate program that is conducted by the Cremation Association of North America (CANA).
- (15) 'Final disposition' means the cremation and the ultimate interment, entombment, inurnment, or scattering of the cremated remains or the return of the cremated remains by the crematory licensee to the authorizing agent or such agent's designee as provided in this Article. Upon the written direction of the authorizing agent, cremated remains may take various forms.
- (16) 'Holding and processing facility' means an area or areas that are designated for the retention of human remains prior to, and the retention and processing of cremated remains after, cremation; that comply with all applicable public health and environmental laws; preserve the health and safety of the crematory technician and other personnel of the crematory; and that are secure from access by anyone other than authorized persons. A holding facility and processing facility must be located in a crematory.
- (17) 'Human remains' means the body of a deceased person, including a separate human fetus, regardless of the length of gestation, or body parts.
- (18) 'Niche' means a compartment or cubicle for the memorialization or final disposition of an urn or container containing cremated remains.
- (19) 'Processing' means the removal of bone fragments from the cremation chamber for the reduction in size, labeling and packaging, and placing in an urn or temporary container.
- (20) 'Pulverization' means the reduction of identifiable or unidentifiable bone fragments after the completion of the cremation to granulated particles by mechanical means.

- (21) 'Scattering area' means an area permitted by North Carolina law including, but not limited to, an area designated by a cemetery and located on dedicated cemetery property where cremated remains that have been removed from their container can be mixed with or placed on top of the soil or ground cover.
- (22) 'Temporary container' means a receptacle for cremated remains, usually composed of cardboard, plastic, or similar material which can be closed in a manner so as to prevent the leakage or spillage of the cremated remains or the entrance of foreign material and which is a single container of sufficient size to hold the cremated remains until an urn is acquired or the cremated remains are scattered.
- (23) 'Urn' means a receptacle designed to permanently encase the cremated remains.

**"§ 90-210.42. Crematory Authority established.**

(a) The North Carolina Crematory Authority is established as a Committee within the Board. The Crematory Authority shall suggest rules to the Board for the carrying out and enforcement of the provisions of this Article.

(b) The Crematory Authority shall initially consist of five members appointed by the Governor and two members of the Board appointed by the Board. The Governor may consider a list of recommendations from the Cremation Association of North Carolina.

(c) The initial terms of the members of the Crematory Authority shall be staggered by the appointing authorities so that the terms of three members (two of which shall be appointees of the Governor) expire December 31, 1991, the terms of two members (both of which shall be appointees of the Governor) expire December 31, 1992, and the terms of the remaining two members (one of which shall be an appointee of the Governor) expire December 31, 1993.

As the terms of the members appointed by the Governor expire, their successors shall be elected from among a list of nominees in an election conducted by the Board in which all licensed crematory operators are eligible to vote. The Board may conduct the election for members of the Crematory Authority simultaneously with the election for members of the Board or at any other time. The Board shall prescribe the procedures and establish the time and date for nominations and elections to the Crematory Authority. A nominee who receives a majority of the votes cast shall be declared elected. The Board shall appoint the successors to the two positions for which it makes initial appointments pursuant to this section.

The terms of the elected members of the Crematory Authority shall be three years. The terms of the members appointed by the Board, including the members initially appointed pursuant to this subsection, shall be coterminous with their terms on the Board. Any vacancy occurring in an elective seat shall be filled for the unexpired term by majority vote of the remaining members of the Crematory Authority. Any vacancy occurring in a seat appointed by the Governor shall be filled by the Governor. Any vacancy occurring in a seat appointed by the Board shall be filled by the Board.

(d) The members of the Crematory Authority shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 93B-5 for all time actually spent upon the business of the Crematory Authority. All expenses, salaries and per diem provided for in this Article shall be paid from funds received ~~under the provisions of this Article and Article 13A~~ and shall in no manner be an expense to the State.

(e) The Crematory Authority shall select from its members a chairman, a vice chairman and a secretary who shall serve for one year or until their successors are elected and qualified. No two offices may be held by the same person. The Crematory Authority, with the concurrence of the Board, shall have the authority to engage adequate staff as deemed necessary to perform its duties.

(f) The Crematory Authority shall hold at least one meeting in each year. In addition, the Crematory Authority may meet as often as the proper and efficient discharge of its duties shall require. ~~Five~~Four members shall constitute a quorum.

**"§ 90-210.43. Licensing and inspection.**

~~(a) Any person doing business in this State, or any cemetery, funeral establishment, corporation, partnership, joint venture, voluntary organization or any other entity may erect, maintain and conduct a crematory in this State and may provide the necessary appliances and facilities for the cremation of human remains, provided that such person has secured a license as a crematory operator in accordance with the provisions of this Article.~~

~~(b) A crematory may be constructed on or adjacent to any cemetery, on or adjacent to any funeral establishment that is zoned commercial or industrial, or at any other location consistent with local zoning regulations.~~

~~(c) Application for a license as a crematory operator shall be made on forms furnished and prescribed by the Board. The Board shall examine the premises and structure to be used as a crematory and shall issue a renewable license to the crematory operator if the applicant meets all the requirements and standards of the Board and the requirements of this Article.~~

~~(d) Every application for licensure shall identify the individual who is responsible for overseeing the management and operation of the crematory. The crematory operator shall keep the Board informed at all times of the name and address of the manager.~~

~~(d1) All licenses shall expire on the last day of December of each year. A license may be renewed without paying a late fee on or before the first day of February immediately following expiration. After that date, a license may be renewed by paying a late fee as provided in G.S. 90-210.48 in addition to the annual renewal fee. Licenses that remain expired six months or more require a new application for renewal. Licenses are not transferable. A new application for a license shall be made to the Board within 30 days following a change of ownership of more than fifty percent (50%) of the business.~~

~~(e) No person, cemetery, funeral establishment, corporation, partnership, joint venture, voluntary organization or any other entity shall cremate any human remains, except in a crematory licensed for this express purpose and under the limitations provided in this Article, or unless otherwise permitted by statute.~~

~~(f) Whenever the Board finds that an owner, partner, manager, member, or officer of a crematory operator or an applicant to become a crematory operator, or that any agent or employee of a crematory operator or an applicant to become a crematory operator, with the direct or implied permission of such owner, partner, manager, member, or officer, has violated any provision of this Article, or is guilty of any of the following acts, and when the Board also finds that the crematory operator or applicant has thereby become unfit to practice, the Board may suspend, revoke, or refuse to issue or renew the license, in accordance with the procedures of Chapter 150B:~~

~~(1) Conviction of a felony or a crime involving fraud or moral turpitude.~~

- ~~(2) Fraud or misrepresentation in obtaining or renewing a license or in the practice of cremation.~~
- ~~(3) False or misleading advertising.~~
- ~~(4) Gross immorality, including being under the influence of alcohol or drugs while performing cremation services.~~
- ~~(5) Using profane, indecent or obscene language in the presence of a dead human body, and within the immediate hearing of the family or relatives of a deceased, whose body has not yet been cremated or otherwise disposed of.~~
- ~~(6) Violating or cooperating with others to violate any of the provisions of this Article or of the rules of the Board.~~
- ~~(7) Violation of any State law or municipal or county ordinance or regulation affecting the handling, custody, care or transportation of dead human bodies.~~
- ~~(8) Refusing to surrender promptly the custody of a dead human body or cremated remains upon the express order of the person lawfully entitled to the custody thereof, except as provided in G.S. 90-210.47(e).~~
- ~~(9) Indecent exposure or exhibition of a dead human body while in the custody or control of a licensee.~~

~~In any case in which the Board is authorized to take any of the actions permitted under this subsection, the Board may instead accept an offer in compromise of the charges whereby the accused shall pay to the Board a penalty of not more than one thousand dollars (\$1,000).~~

~~(g) The Board and Crematory Authority may hold hearings in accordance with the provisions of this Article and Chapter 150B. Any such hearing shall be conducted jointly by the Board and the Crematory Authority. The Board and the Crematory Authority shall jointly constitute an "agency" under Article 3A of Chapter 150B of the General Statutes with respect to proceedings initiated pursuant to this Article. The Board is empowered to regulate and inspect crematories and crematory operators and to enforce as provided by law the provisions of this Article and the rules adopted hereunder. Any crematory that, upon inspection, is found not to meet any of the requirements of this Article shall pay a reinspection fee to the Board for each additional inspection that is made to ascertain whether the deficiency or other violation has been corrected.~~

~~In addition to the powers enumerated in Chapter 150B of the General Statutes, the Board shall have the power to administer oaths and issue subpoenas requiring the attendance of persons and the production of papers and records before the Board in any hearing, investigation or proceeding conducted by it or conducted jointly with the Crematory Authority. Members of the Board's staff or the sheriff or other appropriate official of any county of this State shall serve all notices, subpoenas and other papers given to them by the President of the Board for service in the same manner as process issued by any court of record. Any person who neglects or refuses to obey a subpoena issued by the Board shall be guilty of a Class 1 misdemeanor.~~

~~(a) Any person doing business in this State, or any cemetery, funeral establishment, corporation, partnership, joint venture, voluntary organization, or any other entity may erect, maintain, and operate a crematory in this State and may provide the necessary employees, facilities, structure, and equipment for the cremation of human~~

remains, provided that the person or entity has secured a license as a crematory licensee in accordance with this Article.

(b) A crematory may be constructed on or adjacent to any cemetery, on or adjacent to any funeral establishment that is zoned commercial or industrial, or at any other location consistent with local zoning and environmental regulations.

(c) Application for a license as a crematory licensee shall be made on forms furnished and prescribed by the Board. The Board shall inspect the premises, facilities, structure, and equipment to be used as a crematory, confirm that the crematory manager's and crematory technician's educational certificate is valid, and issue a renewable license to the crematory licensee if the applicant meets all the requirements and standards of the Board and the requirements of this Article.

(d) Every application for licensure shall identify the crematory manager and all crematory technicians employed by the crematory licensee providing that nothing in this Article shall prohibit the designation and identification by the crematory licensee of one individual to serve as a crematory manager and crematory technician. Each crematory licensed in North Carolina shall employ on a full-time basis at least one crematory technician. Every application for licensure and renewal thereof shall include all crematory technicians' educational certificates. The crematory licensee shall keep the Board informed at all times of the names and addresses of the crematory manager and all crematory technicians. In the event a licensee is in the process of replacing its only crematory technician at the time of license renewal, the licensee may continue to operate the crematory for a reasonable time period not to exceed 180 days.

(e) All licenses and permits shall expire on the last day of December of each year. A license or permit may be renewed without paying a late fee on or before the first day of February immediately following expiration. After that date, a license or permit may be renewed by paying a late fee as provided in G.S. 90-210.52 in addition to the annual renewal fee. Licenses and permits that remain expired six months or more require a new application for renewal. Licenses and permits are not transferable. A new application for a license or permit shall be made to the Board within 30 days following a change of ownership of more than fifty percent (50%) of the business.

(f) No person, cemetery, funeral establishment, corporation, partnership, joint venture, voluntary organization, or any other entity shall cremate any human remains, except in a crematory licensed for this express purpose and operated by a crematory licensee subject to the restrictions and limitations of this Article or unless otherwise permitted by statute.

(g) Whenever the Board finds that an owner, partner, crematory manager, member, officer, or any crematory technician of a crematory licensee or any applicant to become a crematory licensee, or that any authorized employee, agent, or representative has violated any provision of this Article, or is guilty of any of the following acts, and when the Board also finds that the crematory operator or applicant has thereby become unfit to practice, the Board may suspend, revoke, or refuse to issue or renew the license, in accordance with Chapter 150B of the General Statutes:

- (1) Conviction of a felony or a crime involving fraud or moral turpitude.
- (2) Fraud or misrepresentation in obtaining or renewing a license or in the practice of cremation.
- (3) False or misleading advertising.
- (4) Solicitation of dead human bodies by the licensee, his agents, assistants, or employees; but this subdivision shall not be construed to prohibit general advertising by the licensee.



- (5) Employment directly or indirectly of any agent, assistant, or other person on a part-time or full-time basis or on commission for the purpose of calling upon individuals or institutions by whose influence dead human bodies may be turned over to a particular licensee.
- (6) The direct or indirect payment or offer of payment of a commission by the licensee or the licensee's agent, assistant, or employees for the purpose of securing business.
- (7) Gross immorality, including being under the influence of alcohol or drugs while performing cremation services.
- (8) Aiding or abetting an unlicensed person to perform services under this Article, including the use of a picture or name in connection with advertisements or other written material published or caused to be published by the licensee.
- (9) Failing to treat a dead human body with respect at all times.
- (10) Violating or cooperating with others to violate any of the provisions of this Article or of the rules of the Board.
- (11) Violation of any State law or municipal or county ordinance or regulation affecting the handling, custody, care, or transportation of dead human bodies.
- (12) Refusing to surrender promptly the custody of a dead human body or cremated remains upon the express order of the person lawfully entitled to the custody thereof, except as provided in G.S. 90-210.51(e).
- (13) Indecent exposure or exhibition of a dead human body while in the custody or control of a licensee.
- (14) Practicing funeral directing, embalming, or funeral service without a license.

In any case in which the Board is authorized to take any of the actions permitted under this subsection, the Board may instead accept an offer in compromise of the charges whereby the accused shall pay to the Board a penalty of not more than five thousand dollars (\$5,000).

(h) Where the Board finds a licensee is guilty of one or more of the acts or omissions listed in subsection (g) of this section but it is determined by the Board that the licensee has not thereby become unfit to practice, the Board may place the licensee on a term of probation in accordance with the procedures set out in Chapter 150B of the General Statutes. In any case in which the Board is entitled to place a licensee on a term of probation, the Board may also impose a penalty of not more than five thousand dollars (\$5,000) in conjunction with the probation.

(i) The Board may hold hearings in accordance with the provisions of this Article and Chapter 150B of the General Statutes. The Board shall conduct any such hearing. The Board shall constitute an "agency" under Article 3A of Chapter 150B of the General Statutes with respect to proceedings initiated pursuant to this Article. The Board is empowered to regulate and inspect crematories and crematory licensees and to enforce as provided by law the provisions of this Article and the rules adopted hereunder. Any crematory that, upon inspection, is found not to meet any of the requirements of this Article shall pay a reinspection fee to the Board for each additional inspection that is made to ascertain whether the deficiency or other violation has been corrected.

In addition to the powers enumerated in Chapter 150B of the General Statutes, the Board shall have the power to administer oaths and issue subpoenas requiring the attendance of persons and the production of papers and records before the Board in any hearing, investigation, or proceeding conducted by it. Members of the Board's staff or the sheriff or other appropriate official of any county of this State shall serve all notices, subpoenas, and other papers given to them by the President of the Board for service in the same manner as process issued by any court of record. Any person who neglects or refuses to obey a subpoena issued by the Board shall be guilty of a Class 1 misdemeanor.

**"§ 90-210.44. Authorizing agent.**

(a) The following person, in the priority list below, shall have the right to serve as an "authorizing agent":

- (1) An individual at least 18 years of age may authorize the cremation and disposition of the individual's own dead body in a written will, pursuant to health care power of attorney to the extent provided in Article 3 of Chapter 32 of the General Statutes, pursuant to a preneed funeral contract executed pursuant to Article 13D of Chapter 90 of the General Statutes, pursuant to a cremation authorization form executed pursuant to Article 13C of Chapter 90 of the General Statutes, or in a written statement signed by the individual and witnessed by two persons who are at least 18 years old. When an individual has authorized his or her own cremation and disposition in accordance with this subsection, the individual or institution designated by that individual shall act as the authorizing agent for that individual.
- (2) If a decedent has left no written authorization for the cremation and disposition of the decedent's body as permitted under subdivision (1) of this subsection, the following competent persons in the order listed may authorize the type, method, place, cremation, and disposition of the decedent's body:
  - a. The surviving spouse.
  - b. A majority of the surviving children who are at least 18 years of age and can be located after reasonable efforts.
  - c. The surviving parents.
  - d. A majority of the surviving siblings who are at least 18 years of age and can be located after reasonable efforts.
  - e. A majority of the persons in the classes of the next degrees of kinship, in descending order, who, under State law, would inherit the decedent's estate if the decedent died intestate who are at least 18 years of age and can be located after reasonable efforts.
  - f. A person who has exhibited special care and concern for the decedent and is willing and able to make decisions about the cremation and disposition.
  - g. In the case of indigents or any other individuals whose final disposition is the responsibility of the State or any of its instrumentalities, a public administrator, medical examiner, coroner, State-appointed guardian, or any other public official charged with arranging the final disposition of the decedent may serve as the authorizing agent.

- h. In the case of individuals who have donated their bodies to science or whose death occurred in a nursing home or private institution and in which the institution is charged with making arrangements for the final disposition of the decedent, a representative of such institution may serve as the authorizing agent in the absence of any of the above.
- i. In the absence of any of the above, any person willing to assume responsibility as authorizing agent, as specified in this act.

This subsection does not grant to any person the right to cancel a preneed funeral contract executed pursuant to Article 13D of Chapter 90 of the General Statutes or to cause or prohibit the substitution of a preneed licensee as authorized under G.S. 90-210.63.

(b) A person who does not exercise his or her right to dispose of the decedent's body under subdivision (a)(2) of this section within five days of notification or 10 days from date of death, whichever is earlier, shall be deemed to have waived his or her right to authorize disposition of the decedent's body or to contest disposition in accordance with this section.

(c) An individual at least 18 years of age may, in a writing signed by the individual, authorize the cremation and disposition of one or more of the individual's body parts that has been or will be removed. If the individual does not authorize the cremation and disposition, a person listed in subdivision (a)(2) of this section may authorize the cremation and disposition as if the individual were deceased.

(d) This section does not apply to the disposition of dead human bodies as anatomical gifts under Part 3 of Article 16 of Chapter 130A of the General Statutes or the right to perform autopsies under Part 2 of Article 16 of Chapter 130A of the General Statutes.

**"§ 90-210.45. Authorization to cremate.**

(a) A crematory licensee shall not cremate human remains until it has received a cremation authorization form signed by an authorizing agent. The cremation authorization form shall be prescribed by the Board and shall contain at a minimum the following information:

- (1) The identity of the human remains and confirmation that the human remains are in fact the individual so named.
- (2) The time and date of death of the decedent.
- (3) The name and address of the funeral establishment and/or the funeral director that obtained the cremation authorization.
- (4) The name and address of the crematory to be in receipt of the human remains for the purpose of cremation.
- (5) The name and address of the authorizing agent, the relationship between the authorizing agent and the decedent, and the date and time of signature of the authorizing agent.
- (6) A representation that the authorizing agent does in fact have the right to authorize the cremation of the decedent and that the authorizing agent is not aware of any living person who has a superior priority right to that of the authorizing agent, as set forth in G.S. 90-210.44. Or, in the event that there is another living person who does have a superior priority right to that of the authorizing agent, a representation that the authorizing agent has made all reasonable efforts to contact

- such person, has been unable to do so, and has no reason to believe that such person would object to the cremation of the decedent.
- (7) A representation that the authorizing agent has either disclosed the location of all living persons with an equal right to that of the authorizing agent, as set forth in G.S. 90-201.44, or does not know the location of any other living person with an equal right to that of the authorizing agent.
  - (8) Authorization for the crematory to cremate the human remains, including authorization to process or pulverize the cremated remains.
  - (9) A representation that the human remains do not contain a pacemaker or any other material or implant that may be potentially hazardous to the person performing the cremation.
  - (10) The name of the person authorized to receive the cremated remains from the crematory licensee.
  - (11) The manner in which final disposition of the cremated remains is to take place, if known. If the cremation authorization form does not specify final disposition in a grave, crypt, niche, or scattering area, then the form shall indicate that the cremated remains will be held by the crematory licensee for 30 days before they are disposed of, unless they are received from the crematory licensee prior to that time, in person, by the authorizing agent or his designee.
  - (12) The signature of the authorizing agent attesting to the accuracy of all representations contained on the cremation authorization form, except as set forth in subsection (b) of this section.
  - (13) If a cremation authorization form is being executed on a preneed basis, the cremation authorization form shall contain the disclosure required by G.S. 90-210.46. The authorizing agent may specify in writing religious practices that conflict with Article 13 of this Chapter. The crematory licensee and funeral director shall observe those religious practices except where they interfere with cremation in a licensed crematory as specified under G.S. 90-210.43 or the required documentation and record keeping.
  - (14) A licensed funeral director of the funeral establishment or crematory licensee that received the cremation authorization form shall also sign the cremation authorization form. Such individual shall not be responsible for any of the representations made by the authorizing agent, unless such individual has actual knowledge to the contrary, except for the information requested by subdivisions (a)(1), (2), (3), (4), and (9) of this section, which shall be considered to be representations of the individual. In addition, the funeral director shall warrant to the crematory that the human remains delivered to the crematory licensee are the human remains identified on the cremation authorization form with any other documentation required by this State, any county, or any municipality.

(b) An authorizing agent who signs a cremation authorization form shall be deemed to warrant the truthfulness of any facts set forth on the cremation authorization form, including that person's authority to order the cremation, except for the information required by subdivisions (a)(4) and (9) of this section, unless the authorizing agent has actual knowledge to the contrary. An authorizing agent signing a cremation

authorization form shall be personally and individually liable for all damages occasioned thereby and resulting therefrom.

(c) A crematory licensee shall have the legal right to cremate human remains upon the receipt of a cremation authorization form signed by an authorizing agent. There shall be no liability for a crematory licensee that cremates human remains pursuant to such authorization, or that releases or disposes of the cremated remains pursuant to such authorization, except for such crematory licensee's gross negligence, provided that the crematory licensee performs such functions in compliance with the provisions of this Article. There shall be no liability for a funeral establishment or licensee thereof that causes a crematory licensee to cremate human remains pursuant to such authorization, except for gross negligence, provided that the funeral establishment and licensee thereof and crematory licensee perform their respective functions in compliance with the provisions of this section.

(d) After the authorizing agent has executed a cremation authorization form and prior to the commencement of the cremation, the authorizing agent may revoke the authorization and instruct the crematory licensee to cancel the cremation and to release or deliver the human remains to another crematory licensee or funeral establishment. Such instructions shall be provided to the crematory licensee in writing. A crematory licensee shall honor any instructions given to it by an authorizing agent under this section, provided that it receives such instructions prior to commencement of the cremation of the human remains.

**"§ 90-210.46. Preneed cremation arrangements.**

(a) Any person, on a preneed basis, may authorize the person's own cremation and the final disposition of the person's cremated remains by executing, as the authorizing agent, a cremation authorization form on a preneed basis and having the form signed by two witnesses. The person shall retain a copy of this form, and a copy shall be sent to the funeral establishment and/or the crematory licensee. Any person shall have the right to transfer or cancel this authorization at any time prior to the person's death by destroying the executed cremation authorization form and providing written notice to the party or parties that received the cremation authorization form.

(b) Any cremation authorization form executed by an individual as the individual's own authorizing agent on a preneed basis shall contain the following disclosure, which shall be completed by the authorizing agent:

/ / I do not wish to allow any of my survivors the option of canceling my cremation and selecting alternative arrangements, regardless of whether my survivors deem such a change to be appropriate.

/ / I wish to allow only the survivors whom I have designated below the option of canceling my cremation and selecting alternative arrangements or continuing to honor my wishes for cremation and purchasing services and merchandise if they deem such a change to be appropriate.

(c) Except as provided in subsection (b) of this section, at the time of the death of a person who has executed, as the authorizing agent, a cremation authorization form on a preneed basis, any person in possession of the executed form, and any person charged with making arrangements for the disposition of the decedent's human remains who has knowledge of the existence of the executed form, shall use the person's best efforts to ensure that the decedent's human remains are cremated and that the final disposition of the cremated remains is in accordance with the instructions contained on the cremation authorization form.

(d) If a crematory licensee is in possession of a completed cremation authorization form, executed on a preneed basis, and the crematory licensee is in possession of the designated human remains, then the crematory licensee shall be required to cremate the human remains and dispose of the human remains according to the instructions contained on the cremation authorization form. A crematory licensee that complies with the preneed cremation authorization form under these circumstances may do so without any liability. A funeral establishment or licensee thereof that causes a crematory licensee to act in accordance with the preneed cremation authorization form under these circumstances may do so without any liability.

(e) Any preneed contract sold by, or preneed arrangements made with, a funeral establishment that includes a cremation shall specify the final disposition of the cremated remains, pursuant to G.S. 90-210.50. In the event that no different or inconsistent instructions are provided to the crematory licensee by the authorizing agent at the time of death, the crematory licensee shall be authorized to release or dispose of the cremated remains as indicated in the preneed agreement. Upon compliance with the terms of the preneed agreement, the crematory licensee, and any funeral establishment or licensee thereof who caused the crematory licensee to act in compliance with the terms of the preneed agreement, shall be discharged from any legal obligation concerning such cremated remains.

(f) The provisions of this section shall not apply to any cremation authorization form or preneed contract executed prior to the effective date of this act. Any funeral establishment, however, with the written approval of the authorizing agent or person who executed the preneed contract, may designate that such cremation authorization form or preneed contract shall be subject to this act.

~~"§ 90-210.44. Authorization and record keeping.~~

~~The Board shall establish requirements for record keeping, authorizations, and cremation reports. It shall be a violation of this Article for any crematory operator to fail to comply with the requirements.~~

**"§ 90-210.47. Record keeping.**

(a) The crematory licensee shall furnish to the person who delivers such human remains to the crematory licensee a receipt, signed by both the crematory licensee and the person who delivers the human remains, showing the date and time of the delivery; the type of casket or cremation container that was delivered; the name of the person from whom the human remains were received and the name of the funeral establishment or other entity with whom such person is affiliated; the name of the person who received the human remains on behalf of the crematory licensee; and the name of the decedent. The crematory licensee shall retain a copy of this receipt in its permanent records for three years.

(b) Upon its release of cremated remains, the crematory licensee shall furnish to the person who receives such cremated remains from the crematory licensee a receipt, signed by both the crematory licensee and the person who receives the cremated remains, showing the date and time of the release; the name of the person to whom the cremated remains were released and the name of the funeral establishment, cemetery, or other entity with whom such person is affiliated; the name of the person who released the cremated remains on behalf of the crematory licensee; and the name of the decedent. The crematory shall retain a copy of this receipt in its permanent records for three years.

(c) A crematory licensee shall maintain at its place of business a record of all forms required by the Board of each cremation that took place at its facility for three years.

(d) The crematory licensee shall maintain a record for three years of all cremated remains disposed of by the crematory licensee in accordance with G.S. 90-210.46(d).

(e) Upon completion of the cremation, the crematory licensee shall issue a certificate of cremation.

(f) All records that are required to be maintained under this Article shall be subject to inspection by the Board or its agents upon request.

**"§ 90-210.48. Cremation containers.**

(a) No crematory licensee shall make or enforce any rules requiring that any human remains be placed in a casket before cremation or that human remains be cremated in a casket, nor shall any crematory licensee refuse to accept human remains for cremation for the reason that they are not in a casket.

(b) No crematory licensee shall make or enforce any rules requiring that any cremated remains be placed in an urn or receptacle designed to permanently encase the cremated remains after the cremation process has been performed.

**"§ 90-210.45. Cremation procedures.**

~~(a) No human body shall be cremated before the crematory operator receives a death certificate signed by the attending physician or an authorization for cremation signed by a medical examiner.~~

~~(b) Human remains shall not be cremated within 24 hours after the time of death, unless such death was a result of an infectious, contagious or communicable and dangerous disease as listed by the Commission of Health Services pursuant to G.S. 130A-134, and unless such time requirement is waived in writing by the medical examiner, county health director, or attending physician where the death occurred. In the event such death comes under the jurisdiction of the medical examiner, the human remains shall not be received by the crematory operator until authorization to cremate has been received in writing from the medical examiner of the county in which the death occurred. In the event the crematory operator is authorized to perform funerals as well as cremation, this restriction on the receipt of human remains shall not be applicable.~~

~~(c) No unauthorized person shall be permitted in the crematory area while any human remains are in the crematory area awaiting cremation, being cremated, or being removed from the cremation chamber. Relatives of the deceased, the authorizing agent, medical examiners and law enforcement officers in the execution of their duties shall be authorized to have access to the holding facility and crematory facility.~~

~~(c1) Human remains shall be cremated only while enclosed in a cremation container.~~

~~(d) The simultaneous cremation of the human remains of more than one person within the same cremation chamber is forbidden.~~

~~(d1) Every crematory shall have a holding facility, within or adjacent to the crematory, designated for the retention of human remains prior to cremation. The holding facility must comply with any applicable public health laws and rules and must meet all of the standards established pursuant to rules adopted by the Board.~~

~~(e) Crematory operators shall comply with standards established by the Board for the reduction and pulverization of human remains by the cremation process.~~

**"§ 90-210.49. Cremation procedures.**

(a) In deaths certified by the attending physician, the body shall not be cremated before the crematory licensee receives a death certificate signed by the attending physician, which shall contain at a minimum the following information:

- (1) Decedent's name;
- (2) Date of death;
- (3) Date of birth;
- (4) Sex;
- (5) Place of death;
- (6) Facility name (if not institution, give street and number);
- (7) County of death;
- (8) City of death; and
- (9) Time of death (if known).

(b) When required by G.S. 130A-388 and the rules adopted pursuant to that section or by successor statute and the rules pursuant to it, a cremation authorization form signed by a medical examiner shall be received by the crematory prior to cremation.

(c) In deaths coming under full investigation by the Office of the Chief Medical Examiner, a burial-transit permit/cremation authorization form must be received by the crematory before cremation.

(d) No body shall knowingly be cremated with a pacemaker or defibrillator or other potentially hazardous implant or condition in place. The authorizing agent for the cremation of the human remains shall be responsible for taking all necessary steps to ensure that any pacemaker or defibrillator or other potentially hazardous implant or condition is removed or corrected prior to cremation. If an authorizing agent informs the funeral director and the crematory licensee on the cremation authorization form of the presence of a pacemaker or defibrillator or other potentially hazardous implant or condition in the human remains, then the funeral director shall be responsible for ensuring that all necessary steps have been taken to remove the pacemaker or defibrillator or other potentially hazardous implant or to correct the hazardous condition before delivering the human remains to the crematory.

(e) Human remains shall not be cremated within 24 hours after the time of death, unless such death was a result of an infectious, contagious, or communicable and dangerous disease as listed by the Commission of Health Services, pursuant to G.S. 130A-134, and unless such time requirement is waived in writing by the medical examiner, county health director, or attending physician where the death occurred.

(f) No unauthorized person shall be permitted in view of the cremation chamber or in the holding and processing facility while any human remains are being removed from the cremation container, processed, or pulverized. Relatives of the deceased and their invitees, the authorizing agent and the agent's invitees, medical examiners, Inspectors of the North Carolina Board of Funeral Service, and law enforcement officers in the execution of their duties shall be authorized to have access to the crematory area, subject to the rules adopted by the crematory licensee governing the safety of such individuals.

(g) Human remains shall be cremated only while enclosed in a cremation container. Upon completion of the cremation, and insofar as is possible, all of the recoverable residue of the cremation process shall be removed from the cremation chamber. Insofar as is possible, all residue of the cremation process shall then be separated from any foreign residue or anything else other than bone fragments and then be processed by pulverization so as to reduce the cremated remains to unidentifiable particles. Any foreign residue and anything other than the particles of the cremated remains shall be removed from the cremated remains as far as possible and shall be disposed of by the crematory licensee. This section does not apply where law otherwise



provides for commingling of human remains. The fact that there is incidental and unavoidable residue in the cremation chamber used in a prior cremation is not a violation of this subsection.

(h) The simultaneous cremation of the human remains of more than one person within the same cremation chamber is forbidden.

(i) Every crematory shall have a holding and processing facility, within the crematory, designated for the retention of human remains prior to cremation. The holding and processing facility must comply with any applicable public health laws and rules and must meet all of the standards established pursuant to rules adopted by the Board.

(j) Crematory licensees shall comply with standards established by the Board for the processing and pulverization of human remains by cremation.

(k) Nothing in this Article shall require a crematory licensee to perform a cremation that is impossible or impractical to perform.

(l) The cremated remains with proper identification shall be placed in a temporary container or the urn selected or provided by the authorizing agent. The temporary container or urn contents shall not be contaminated with any other object, unless specific authorization has been received from the authorizing agent or as provided in subsection (g) of this section.

(m) If the cremated remains are greater than the dimensions of a temporary container or urn, the excess cremated remains shall be returned to the authorizing agent or its representative in a separate container or urn.

(n) If the cremated remains are to be shipped, the temporary container or urn shall be packed securely in a suitable shipping container that complies with the requirements of the shipper. Cremated remains shall be shipped only by a method which has an internal tracing system available and which provides a receipt signed by the person accepting delivery, unless otherwise authorized in writing by the authorizing agent. Cremated remains shall be shipped to the proper address as stated on the cremation authorization form signed by the authorizing agent.

**"§ 90-210.46. Disposition of cremated remains.**

~~(a) The authorizing agent shall provide the person with whom cremation arrangements are made with a signed statement specifying the ultimate disposition of the cremated remains, if known. The crematory operator may store or retain cremated remains as directed by the authorizing agent. Records of retention and disposition of cremated remains shall be kept by the crematory operator pursuant to G.S. 90-210.44.~~

~~(b) The authorizing agent is responsible for the disposition of the cremated remains. If, after a period of 30 days from the date of cremation, the authorizing agent or his representative has not specified the ultimate disposition or claimed the cremated remains, the crematory operator or the person in possession of the cremated remains may dispose of the cremated remains only in a manner permitted in this section. The authorizing agent shall be responsible for reimbursing the crematory operator for all reasonable expenses incurred in disposing of the cremated remains pursuant to this section. A record of such disposition shall be made and kept by the person making such disposition. Upon disposing of cremated remains in accordance with this section, the crematory operator or person in possession of the cremated remains shall be discharged from any legal obligation or liability concerning such cremated remains.~~

~~(c) In addition to the disposal of cremated remains in a crypt, niche, grave, or scattering garden located in a dedicated cemetery, or by scattering over uninhabited public land, the sea or other public waterways pursuant to subsection (f) of this section,~~

~~cremated remains may be disposed of in any manner on the private property of a consenting owner, upon direction of the authorizing agent. If cremated remains are to be disposed of by the crematory operator on private property, other than dedicated cemetery property, the authorizing agent shall provide the crematory operator with the written consent of the property owner.~~

~~(d) Except with the express written permission of the authorizing agent no person may:~~

- ~~(1) Dispose of or scatter cremated remains in such a manner or in such a location that the cremated remains are commingled with those of another person. This subdivision shall not apply to the scattering of cremated remains at sea or by air from individual closed containers or to the scattering of cremated remains in an area located in a dedicated cemetery and used exclusively for such purposes.~~
- ~~(2) Place cremated remains of more than one person in the same closed container. This subdivision shall not apply to placing the cremated remains of members of the same family in a common closed container designed for the cremated remains of more than one person.~~

~~(e) Cremated remains shall be delivered by the crematory operator to the individual specified by the authorizing agent on the cremation authorization form. The representative of the crematory operator and the individual receiving the cremated remains shall sign a receipt indicating the name of the deceased, and the date, time, and place of the receipt. After this delivery, the cremated remains may be transported in any manner in this State, without a permit, and disposed of in accordance with the provisions of this Article.~~

~~(f) Cremated remains may be scattered over uninhabited public land, a public waterway or sea, subject to health and environmental standards, or on the private property of a consenting owner pursuant to subsection (e) of this section. A person may utilize a boat or airplane to perform such scattering. Cremated remains shall be removed from their closed container before they are scattered.~~

**"§ 90-210.50. Final disposition of cremated remains.**

(a) The authorizing agent shall provide the person with whom cremation arrangements are made with a signed statement specifying the ultimate disposition of the cremated remains, if known. The crematory licensee may store or retain cremated remains as directed by the authorizing agent. Records of retention and disposition of cremated remains shall be kept by the crematory licensee pursuant to G.S. 90-210.47.

(b) The authorizing agent is responsible for the disposition of the cremated remains. If, after a period of 30 days from the date of cremation, the authorizing agent or the agent's representative has not specified the final disposition or claimed the cremated remains, the crematory licensee or the person in possession of the cremated remains may dispose of the cremated remains only in a manner permitted in this section. The authorizing agent shall be responsible for reimbursing the crematory licensee for all reasonable expenses incurred in disposing of the cremated remains pursuant to this section. A record of such disposition shall be made and kept by the person making the disposition. Upon disposing of cremated remains in accordance with this section, the crematory licensee or person in possession of the cremated remains shall be discharged from any legal obligation or liability concerning such cremated remains.

(c) In addition to the disposal of cremated remains in a crypt, niche, grave, or scattering garden located in a dedicated cemetery, or by scattering over uninhabited public land, the sea, or other public waterways pursuant to subsection (f) of this section,

cremated remains may be disposed of in any manner on the private property of a consenting owner, upon direction of the authorizing agent. If cremated remains are to be disposed of by the crematory licensee on private property, other than dedicated cemetery property, the authorizing agent shall provide the crematory licensee with the written consent of the property owner.

(d) Except with the express written permission of the authorizing agent, no person may:

- (1) Dispose of or scatter cremated remains in such a manner or in such a location that the cremated remains are commingled with those of another person. This subdivision shall not apply to the scattering of cremated remains at sea or by air from individual closed containers or to the scattering of cremated remains in an area located in a dedicated cemetery and used exclusively for such purposes.
- (2) Place cremated remains of more than one person in the same closed container. This subdivision shall not apply to placing the cremated remains of members of the same family in a common closed container designed for the cremated remains of more than one person with the written consent of the family.

(e) Cremated remains shall be released by the crematory licensee to the individual specified by the authorizing agent on the cremation authorization form. The representative of the crematory licensee and the individual receiving the cremated remains shall sign a receipt indicating the name of the deceased, and the date, time, and place of the receipt, and contain a representation that the handling of the final disposition will be in a proper manner. After this delivery, the cremated remains may be transported in any manner in this State, without a permit, and disposed of in accordance with the provisions of this Article.

(f) Cremated remains may be scattered over uninhabited public land, over a public waterway or sea, subject to health and environmental standards, or on the private property of a consenting owner pursuant to subsection (c) of this section. A person may utilize a boat or airplane to perform such scattering. Cremated remains shall be removed from their closed container before they are scattered.

~~"§ 90-210.47. Liability.~~

~~(a) Any person signing a cremation authorization form shall be deemed to warrant the truthfulness of any facts set forth in the cremation authorization form, including the identity of the deceased whose remains are sought to be cremated and that person's authority to order such cremation.~~

~~(b) A crematory operator shall have authority to cremate human remains only upon the receipt of a cremation authorization form signed by an authorizing agent. There shall be no liability of a crematory operator that cremates human remains pursuant to such authorization, or that releases or disposes of the cremated remains pursuant to such authorization.~~

~~(c) A crematory operator shall not be responsible or liable for any valuables delivered to the crematory operator with human remains.~~

~~(d) A crematory operator shall not be liable for refusing to accept a body or to perform a cremation until it receives a court order or other suitable confirmation that a dispute has been settled if:~~

- ~~(1) It is aware of any dispute concerning the cremation of human remains;~~
- ~~(2) It has a reasonable basis for questioning any of the representations made by the authorizing agent; or~~

(3) For any other lawful reason.

(e) ~~If a crematory operator is aware of any dispute concerning the release or disposition of the cremated remains, the crematory operator may refuse to release the cremated remains until the dispute has been resolved or the crematory operator has been provided with a court order authorizing the release or disposition of the cremated remains. A crematory operator shall not be liable for refusing to release or dispose of cremated remains in accordance with this subsection.~~

**"§ 90-210.51. Limitation of liability.**

(a) Any person signing a cremation authorization form as authorizing agent shall be deemed to warrant the truthfulness of any facts set forth in the cremation authorization form, including the identity of the deceased whose remains are sought to be cremated and that person's authority to order such cremation.

(b) A crematory licensee shall have authority to cremate human remains only upon the receipt of a cremation authorization form signed by an authorizing agent. There shall be no liability of a crematory licensee that cremates human remains pursuant to such authorization or that releases or disposes of the cremated remains pursuant to such authorization. A crematory licensee and funeral establishment or licensee thereof who causes the crematory licensee to act shall have no liability for the final disposition or manner in which the cremated remains are handled after the cremated remains are released in accordance with the directions of the authorizing agent.

(c) A crematory licensee shall not be responsible or liable for any valuables delivered to the crematory licensee with human remains.

(d) A crematory licensee shall not be liable for refusing to accept a body or to perform a cremation until it receives a court order or other suitable confirmation that a dispute has been settled if:

- (1) It is aware of any dispute concerning the cremation of human remains;
- (2) It has a reasonable basis for questioning any of the representations made by the authorizing agent; or
- (3) For any other lawful reason.

(e) If a crematory licensee is aware of any dispute concerning the release or disposition of the cremated remains, the crematory licensee may refuse to release the cremated remains until the dispute has been resolved or the crematory licensee has been provided with a court order authorizing the release or disposition of the cremated remains. A crematory licensee shall not be liable for refusing to release or dispose of cremated remains in accordance with this subsection. A crematory licensee may charge a reasonable storage fee if the dispute is not resolved within 30 days after it is received by the crematory licensee.

**"§ 90-210.48. Fees.**

(a) ~~The Board may set and collect fees not to exceed the following amounts from licensed crematory operators and applicants:~~

(1)	<del>Licensee application fee</del>	<del>\$400.00</del>
(2)	<del>Annual renewal fee</del>	<del>150.00</del>
(3)	<del>Late renewal penalty</del>	<del>75.00</del>
(4)	<del>Re-inspection fee</del>	<del>100.00</del>
(5)	<del>Per cremation fee.</del>	<del>10.00</del>
(6)	<del>Late fee, per cremation.</del>	<del>10.00</del>
(7)	<del>Late fee, cremation report</del>	<del>75.00 per month.</del>

~~(b) The funds collected pursuant to this Article shall become part of the general fund of the Board. The cost of the maintenance of the Crematory Authority shall be deemed a general expense of the Board. The Board shall keep an accurate accounting of all the receipts and expenditures made pursuant to this Article and shall provide a current report of such to the Crematory Authority biannually.~~

**"§ 90-210.52. Fees.**

~~(a) The Board may set and collect fees not to exceed the following amounts from crematory licensees, crematory manager permit holders, and applicants:~~

<del>(1)</del>	<del>Licensee application fee</del>	<del>\$400.00</del>
<del>(2)</del>	<del>Annual renewal fee</del>	<del>150.00</del>
<del>(3)</del>	<del>Late renewal fee</del>	<del>75.00</del>
<del>(4)</del>	<del>Reinspection fee</del>	<del>100.00</del>
<del>(5)</del>	<del>Per cremation fee</del>	<del>10.00</del>
<del>(6)</del>	<del>Late fee, per cremation</del>	<del>10.00</del>
<del>(7)</del>	<del>Late fee, cremation report</del>	<del>75.00 per month</del>
<del>(8)</del>	<del>Crematory manager permit application fee</del>	<del>150.00</del>
<del>(9)</del>	<del>Annual crematory manager permit renewal fee</del>	<del>40.00.</del>

~~(b) The funds collected pursuant to this Article shall become part of the general fund of the Board.~~

**"§ 90-210.49. Crematory operator authority.**

~~(a) A crematory operator may employ a licensed funeral director for the purpose of arranging cremations with the general public, transporting human remains to the crematory, and processing all necessary paper work. Nothing in this provision may be construed to require a licensed funeral director to perform any functions not otherwise required by law to be performed by a licensed funeral director.~~

~~(b) A crematory operator may adopt reasonable rules consistent with this Article for the management and operation of a crematory. Nothing in this subsection may be construed to prevent a crematory operator from adopting rules which are more stringent than the provisions of this Article.~~

~~(c) Nothing in this Article shall prohibit or require the performance of cremations by crematory operators for or directly with the public, or exclusively for or through licensed funeral directors.~~

~~(d) Nothing in this Article may be construed to prohibit a crematory operator from transporting human remains.~~

~~(e) Nothing in this Article may be construed to relieve the holder of a license issued hereunder from obtaining any other licenses or permits required by law.~~

**"§ 90-210.53. Crematory licensee rights.**

~~(a) A crematory licensee may adopt reasonable rules consistent with this Article for the management and operation of a crematory. Nothing in this subsection may be construed to prevent a crematory licensee from adopting rules which are more stringent than the provisions of this Article.~~

~~(b) Nothing in this Article may be construed to relieve the crematory licensee from obtaining any other licenses or permits required by law.~~

~~(c) Nothing in this Article shall prohibit or require the performance of cremations by crematory licensees or crematory managers for or directly with the public or exclusively for or through licensed funeral directors.~~

**"§ 90-210.50. Rule making; applicability; violations; and prohibitions of Article.**

~~(a) The Board is authorized to adopt and promulgate such rules for the carrying out and enforcement of the provisions of this Article as may be necessary and as are~~

~~consistent with the laws of this State and of the United States. The Board shall adopt rules only after consideration of the Crematory Authority's suggested rules pursuant to G.S. 90-210.42(a). The Board may perform such other acts and exercise such other powers and duties as may be provided in this Article, in Article 13A of this Chapter, and otherwise by law and as may be necessary to carry out the powers herein conferred.~~

~~(b) The provisions of this Article shall not apply to the cremation of human remains and medical waste performed by the North Carolina Anatomical Commission, licensed hospitals and medical schools, and the office of the Chief Medical Examiner when the disposition of such human remains and medical waste is the legal responsibility of said institutions.~~

~~(c) A violation of any of the provisions of this Article is a Class 2 misdemeanor.~~

~~(d) No person, firm, or corporation may request or authorize cremation or cremate a dead human body when he has information indicating a crime or violence of any sort in connection with the cause of death unless such information has been conveyed to the State or county medical examiner and permission from the State or county medical examiner to cremate has thereafter been obtained.~~

**"§ 90-210.54. Rulemaking, applicability, violations, and prohibitions of Article.**

(a) The Board is authorized to adopt and promulgate such rules for the carrying out and enforcement of the provisions of this Article as may be necessary and as are consistent with the laws of this State and of the United States. The Board may develop a Standard Cremation Authorization Form and procedures for its execution that shall be used by the crematory licensee subject to this Article, unless a crematory has its own form approved by the Board. A crematory licensee that uses its own approved cremation authorization form must have the cremation authorization form reapproved if changed or after amendments are made to this Article or the rules adopted by the Board related to cremation authorization forms. The Board may perform such other acts and exercise such other powers and duties as may be provided in this Article, in Article 13A of this Chapter, and otherwise by law and as may be necessary to carry out the powers herein conferred.

(b) The provisions of this Article shall not apply to the cremation of medical waste performed by the North Carolina Anatomical Commission, licensed hospitals and medical schools, and the office of the Chief Medical Examiner when the disposition of such medical waste is the legal responsibility of the institutions.

(c) A violation of any of the provisions of this Article is a Class 2 misdemeanor.

(d) No person, firm, or corporation may request or authorize cremation or cremate human remains when the person, firm, or corporation has information indicating a crime or violence of any sort in connection with the cause of death unless such information has been conveyed to the State or county medical examiner and permission from the State or county medical examiner to cremate the human remains has thereafter been obtained."

**SECTION 3.** G.S. 90-210.20(e1) reads as rewritten:

"(e1) "Funeral chapel" means a chapel or other facility separate from the funeral establishment premises for the primary purpose of ~~reposing~~ of dead human bodies, visitation or funeral ceremony that is owned, operated, or maintained by a funeral establishment or other licensee under this Article, and that does not use the word "funeral" in its name, on a sign, in a directory, in advertising or in any other manner; in which or on the premises of which there is not displayed ~~or offered for sale~~ any caskets or other funeral merchandise; in which or on the premises of which there is not located any ~~funeral business office or a preparation room; in which or on the premises of which~~

~~no funeral sales, financing, or arrangements are made;~~ and which no owner, operator, employee, or agent thereof represents the chapel to be a funeral establishment."

**SECTION 4.** G.S. 90-210.22 reads as rewritten:

"§ **90-210.22. Required meetings of the Board.**

The Board shall hold at least ~~two~~ four meetings in each year ~~at which examinations shall be given to qualified applicants for licenses~~ year. In addition, the Board may meet as often as the proper and efficient discharge of its duties shall require. Five members shall constitute a quorum."

**SECTION 5.(a)** G.S. 90-210.23(b) reads as rewritten:

"§ **90-210.23. Powers and duties of the Board.**

...

(b) The Board shall elect from its members a president, a vice-president and a secretary, no two offices to be held by the same person. The president and vice-president and secretary shall serve for one year and until their successors shall be elected and ~~qualify~~ qualified. The Board shall have authority to engage adequate staff as deemed necessary to perform its duties."

**SECTION 5.(b)** G.S. 90-210.23 is amended by adding the following new subsections to read:

"(h1) The Board shall have the power to acquire, hold, rent, encumber, alienate, and otherwise deal with real property in the same manner as a private person or corporation, subject only to approval of the Governor and the Council of State. Collateral pledged by the Board for an encumbrance is limited to the assets, income, and revenues of the Board.

(h2) The Board may employ legal counsel and clerical and technical assistance, and fix the compensation therefor, and incur such other expenses as may be deemed necessary in the performance of its duties and the enforcement of the provisions of this Article or as otherwise required by law and as may be necessary to carry out the powers herein conferred."

**SECTION 6.** G.S. 90-210.24(a) reads as rewritten:

"§ **90-210.24. Inspector.**

(a) The Board may appoint one or more agents who shall serve at the pleasure of the Board and who shall have the title "~~Inspector of the Board of Mortuary Science of North Carolina~~" North Carolina Board of Funeral Service." No person is eligible for appointment as inspector unless at the time of ~~his~~ the appointment ~~he~~ the person is licensed under this Article as a funeral service licensee."

**SECTION 7.** G.S. 90-210.25 reads as rewritten:

"§ **90-210.25. Licensing.**

(a) Qualifications, Examinations, Resident Traineeship and Licensure. –

(1) To be licensed for the practice of funeral directing under this Article, a person must:

- a. Be at least 18 years of age.
- b. Be of good moral character.
- c. Be a graduate of a Funeral Director Program at a mortuary science college approved by the Board or a school of mortuary science accredited by the American Board of Funeral Service Education. Have completed a minimum of 32 semester hours or 48 quarter hours of instruction, including the subjects set out in sub-part e.1. of this subdivision, as prescribed by a mortuary science college approved by the Board or a school of mortuary

- science accredited by the American Board of Funeral Service Education.
- d. Have completed 12 months of resident traineeship as a funeral director, pursuant to the procedures and conditions set out in G.S. 90-210.25(a)(4), either before or after satisfying the educational requirement under sub-subdivision c. of this subdivision.
  - e. Have passed an oral or written funeral director examination on the following subjects:
    1. Psychology, sociology, pathology, funeral directing, business law, funeral law, funeral management, and accounting.
    2. Repealed by 1997-399, s. 5.
    3. Laws of North Carolina and rules of the Board of ~~Mortuary Science~~ and other agencies dealing with the care, transportation and disposition of dead human bodies.
- (2) To be licensed for the practice of embalming under this Article, a person must:
- a. Be at least 18 years of age.
  - b. Be of good moral character.
  - c. Be a graduate of a mortuary science college approved by the Board.
  - d. Have completed 12 months of resident traineeship as an embalmer pursuant to the procedures and conditions set out in G.S. 90-210.25(a)(4), either before or after satisfying the educational requirement under sub-subdivision c. of this subdivision.
  - e. Have passed an oral or written embalmer examination on the following subjects:
    1. Embalming, restorative arts, chemistry, pathology, microbiology, and anatomy.
    2. Repealed by 1997-399, s. 6.
    3. Laws of North Carolina and rules of the Board of ~~Mortuary Science~~ and other agencies dealing with the care, transportation and disposition of dead human bodies.
- (3) To be licensed for the practice of funeral service under this Article, a person must:
- a. Be at least 18 years of age.
  - b. Be of good moral character.
  - c. Be a graduate of and receive an associate degree from a mortuary science college approved by the Board or a school of mortuary science accredited by the American Board of Funeral Service Education. Have completed a minimum of ~~32-60~~ semester hours or ~~48-90~~ quarter hours of instruction, including the subjects set out in sub-part e.1. of this subdivision, as prescribed by a mortuary science college approved by the Board



- or a school of mortuary science accredited by the American Board of Funeral Service Education.
- d. Have completed 12 months of resident traineeship as a funeral service licensee, pursuant to the procedures and conditions set out in G.S. 90-210.25(a)(4), either before or after satisfying the educational requirement under sub-subdivision c. of this subdivision.
  - e. Have passed an oral or written funeral service examination on the following subjects:
    1. Psychology, sociology, funeral directing, business law, funeral law, funeral management, and accounting.
    2. Embalming, restorative arts, chemistry, pathology, microbiology, and anatomy.
    3. Repealed by 1997-399, s. 7.
    4. Laws of North Carolina and rules of the Board of ~~Mortuary Science~~ and other agencies dealing with the care, transportation and disposition of dead human bodies.
- (4) a. A person desiring to become a resident trainee shall apply to the Board on a form provided by the Board. The application shall state that the applicant is not less than 18 years of age, of good moral character, and is the graduate of a high school or the equivalent thereof, and shall indicate the licensee under whom the applicant expects to train. A person training to become an embalmer may serve under either a licensed embalmer or a funeral service licensee. A person training to become a funeral director may serve under either a licensed funeral director or a funeral service licensee. A person training to become a funeral service licensee shall serve under a funeral service licensee. The application must be sustained by oath of the applicant and be accompanied by the appropriate fee. When the Board is satisfied as to the qualifications of an applicant it shall instruct the secretary to issue a certificate of resident traineeship.
- b. When a resident trainee leaves the proctorship of the licensee under whom the trainee has worked, the licensee shall file with the Board an affidavit showing the length of time served with the licensee by the trainee, and the affidavit shall be made a matter of record in the Board's office. The licensee shall deliver a copy of the affidavit to the trainee.
  - c. A person who has not completed the traineeship and wishes to do so under a licensee other than the one whose name appears on the original certificate may reapply to the Board for ~~approval, without payment of an additional fee.~~ approval.
  - d. A certificate of resident traineeship shall be signed by the resident trainee and upon payment of the renewal fee shall be renewable one year after the date of original registration; but the certificate may not be renewed more than ~~one time.~~ two times. The Board shall mail to each registered trainee at his last known address a notice that the renewal fee is due and that, if

not paid within 30 days of the notice, the certificate will be canceled. A ~~penalty, late fee,~~ in addition to the renewal fee, shall be charged for a late renewal, but the renewal of the registration of any resident trainee who is engaged in the active military service of the United States at the time renewal is due may, at the discretion of the Board, be held in abeyance for the duration of that service without penalties. No credit shall be allowed for the 12-month period of resident traineeship that shall have been completed more than ~~three~~ five years preceding the examination for a license.

- e. All registered resident trainees shall report to the Board at least once every month during traineeship upon forms provided by the Board listing the work which has been completed during the preceding month of resident traineeship. The data contained in the reports shall be certified as correct by the licensee under whom the trainee has served during the period and by the licensed person who is managing the funeral service establishment. Each report shall list the following:
  1. For funeral director trainees, the conduct of any funerals during the relevant time period,
  2. For embalming trainees, the embalming of any bodies during the relevant time period,
  3. For funeral service trainees, both of the activities named in 1 and 2 of this subsection, engaged in during the relevant time period.
- f. To meet the resident traineeship requirements of G.S. 90-210.25(a)(1), G.S. 90-210.25(a)(2) and G.S. 90-210.25(a)(3) the following must be shown by the affidavit(s) of the licensee(s) under whom the trainee worked:
  1. That the funeral director trainee has, under supervision, assisted in directing at least 25 funerals during the resident traineeship,
  2. That the embalmer trainee has, under supervision, assisted in embalming at least 25 bodies during the resident traineeship,
  3. That the funeral service trainee has, under ~~supervision~~ supervision, assisted in directing at least 25 funerals and, under supervision, assisted in embalming at least 25 bodies during the resident traineeship.
- g. The Board may suspend or revoke a certificate of resident traineeship for violation of any provision of this Article.
- h. Each sponsor for a registered resident trainee must during the period of sponsorship be actively employed with a funeral establishment. The traineeship shall be a primary vocation of the trainee.
- i. Only one resident trainee may register and serve at any one time under any one person licensed under this Article.
- j., k. Repealed by Session Laws 1991, c. 528, s. 4.

1. The Board shall register no more than one resident trainee at a funeral establishment that served 100 or fewer families during the 12 months immediately preceding the date of the application, and shall register no more than one resident trainee for each additional 100 families served at the funeral establishment during the 12 months immediately preceding the date of the application.
- (5) The Board by regulation may recognize other examinations that the Board deems equivalent to its own.
- a. All licenses shall be signed by the president and secretary of the Board and the seal of the Board affixed thereto. All licenses shall be issued, renewed or duplicated for a period not exceeding one year upon payment of the renewal fee, and all licenses, renewals or duplicates thereof shall expire and terminate the thirty-first day of December following the date of their issue unless sooner revoked and canceled; provided, that the date of expiration may be changed by unanimous consent of the Board and upon 90 days' written notice of such change to all persons licensed for the practice of funeral directing, embalming and funeral service in this State.
  - b. The holder of any license issued by the Board who shall fail to renew the same on or before ~~January 31~~February 1 of the calendar year for which the license is to be renewed shall have forfeited and surrendered the license as of that date. No license forfeited or surrendered pursuant to the preceding sentence shall be reinstated by the Board unless it is shown to the Board that the applicant has, throughout the period of forfeiture, engaged full time in another state of the United States or the District of Columbia in the practice to which his North Carolina license applies and has completed for each such year continuing education substantially equivalent in the opinion of the Board to that required of North Carolina licensees; or has completed in North Carolina a total number of hours of accredited continuing education computed by multiplying five times the number of years of forfeiture; or has passed the North Carolina examination for the forfeited license. No additional resident traineeship shall be required. The applicant shall be required to pay all delinquent annual renewal fees and a reinstatement fee. The Board may waive the provisions of this section for an applicant for a forfeiture which occurred during his service in the armed forces of the United States provided he applies within six months following severance therefrom.
  - c. All licensees now or hereafter licensed in North Carolina shall take continuing education courses ~~of study~~ in subjects relating to the practice of the profession for which they are licensed, to the end that ~~new techniques, scientific and clinical advances, the achievements of research and~~ the benefits of learning and reviewing skills will be utilized and applied to assure proper service to the public.

- d. As a prerequisite to the annual renewal of a license, the licensee must complete, during the year immediately preceding renewal, at least five hours of continuing education courses, of which the Board may require licensees to take up to two hours specified by the Board. All continuing education courses must be approved by the Board prior to enrollment. A licensee who completes more than five hours in a year may carry over a maximum of five hours as a credit to the following year's requirement. A licensee who is issued an initial license on or after July 1 does not have to satisfy the continuing education requirement for that year.
- e. The Board shall not renew a license unless fulfillment of the continuing education requirement has been certified to it on a form provided by the Board, but the Board may waive this requirement for renewal in cases of certified illness or undue hardship or where the licensee lives outside of North Carolina and does not practice in North Carolina, and the Board shall waive the requirement for all licensees who were licensed on or before December 31, 2003, and have been licensed in North Carolina for a continuous period of 25 years or more, for all licensees who are licensed on or after January 1, 2004, who have been licensed for a continuous period of 25 years or more and have attained the age of 60 years, and for all licensees who are, at the time of renewal, members of the General Assembly.
- f. The Board shall cause to be established and offered to the licensees, each calendar year, at least ~~five-eight~~ hours of continuing education ~~courses in subjects encompassing the license categories of embalming, funeral directing and funeral service courses.~~ The Board may charge licensees attending these courses a reasonable registration fee in order to meet the expenses thereof and may also meet those expenses from other funds received under the provisions of this Article.
- g. Any person who having been previously licensed by the Board as a funeral director or embalmer prior to July 1, 1975, shall not be required to satisfy the requirements herein for licensure as a funeral service licensee, but shall be entitled to have such license renewed upon making proper application therefor and upon payment of the renewal fee provided by the provisions of this Article. Persons previously licensed by the Board as a funeral director may engage in funeral directing, and persons previously licensed by the Board as an embalmer may engage in embalming. Any person having been previously licensed by the Board as both a funeral director and an embalmer may upon application therefor receive a license as a funeral service licensee.
- h. The Department of Justice may provide a criminal record check to the Board for a person who has applied for a new or renewal license, or certification through the Board. The Board shall provide to the Department of Justice, along with the request, the

fingerprints of the applicant, any additional information required by the Department of Justice, and a form signed by the applicant consenting to the check of the criminal record and to the use of the fingerprints and other identifying information required by the State or national repositories. The applicant's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of the fingerprints to the Federal Bureau of Investigation for a national criminal history check. The Board shall keep all information pursuant to this subdivision privileged, in accordance with applicable State law and federal guidelines, and the information shall be confidential and shall not be a public record under Chapter 132 of the General Statutes.

The Department of Justice may charge each applicant a fee for conducting the checks of criminal history records authorized by this subdivision.

(a1) **Inactive Licenses.** – Any person holding a license issued by the Board for funeral directing, for embalming, or for the practice of funeral service may apply for an inactive license in the same category as the active license held. The inactive license is renewable annually. Continuing education is not required for the renewal of an inactive license. The only activity that a holder of an inactive license may engage in is to vote pursuant to G.S. 90-210.18(c)(2). The holder of an inactive license may apply for an active license in the same category, and the Board shall issue an active license if the applicant has completed in North Carolina a total number of hours of accredited continuing education equal to five times the number of years the applicant held the inactive license. No application fee is required for the reinstatement of an active license pursuant to this subsection. The holder of an inactive license who returns to active status shall surrender the inactive license to the Board.

(a2) In order to engage in the practice of funeral directing or funeral service, such a licensee must own, be employed by, or otherwise be an agent of a licensed funeral establishment; except that such a licensee may practice funeral directing or funeral service if:

- (1) Employed by a college of mortuary science; or
- (2) The licensee:
  - a. Maintains all of his or her business records at a location made known to the Board and available for inspection by the Board under the same terms and conditions as the business records of a licensed funeral establishment;
  - b. Complies with rules and regulations imposed on funeral establishments and the funeral profession that are designed to protect consumers, to include, but not be limited to, the Federal Trade Commission's laws and rules requiring General Price Lists and Statements of Goods and Services; and
  - c. Pays to the Board the funeral establishment license fee required by law and set by the Board.

Nothing in this subdivision shall preclude a licensee from arranging cremations and cremating human remains while employed by a crematory.

- (b) Persons Licensed under the Laws of Other Jurisdictions. –
- (1) The Board shall grant licenses to funeral directors, embalmers and funeral service licensees, licensed in other states, territories, the District of Columbia, and foreign countries, when it is shown that the applicant holds a valid license as a funeral director, embalmer or funeral service licensee issued by the other jurisdiction, has demonstrated knowledge of the laws and ~~regulations~~ rules governing the profession in North Carolina and has submitted proof of his good moral character; and either that the applicant has continuously practiced the profession in the other jurisdiction for at least three years immediately preceding his application, or the Board has determined that the licensing requirements for the other jurisdiction are substantially similar to those of North Carolina.
  - (2) The Board shall periodically review the mortuary science licensing requirements of other jurisdictions and shall determine which licensing requirements are substantially similar to the requirements of North Carolina.
  - (3) The Board may issue special permits, to be known as courtesy cards, permitting nonresident funeral directors, embalmers and funeral service licensees to remove bodies from and to arrange and direct funerals and embalm bodies in this State, but these privileges shall not include the right to establish a place of business in or engage generally in the business of funeral directing and embalming in this State. Except for special permits issued by the Board for teaching continuing education programs and for work in connection with disasters, no special permits may be issued to nonresident funeral directors, embalmers, and funeral service licensees from states that do not issue similar courtesy cards to persons licensed in North Carolina pursuant to this Article.
- (c) Registration, Filing and Transportation. –
- (1) The holder of any license granted by this State for those within the funeral service profession or renewal thereof provided for in this Article shall cause registration to be filed in the office of the board of health of the county or city in which he practices his profession, or if there be no board of health in such county or city, at the office of the clerk of the superior court of such county. All such licenses, certificates, duplicates and renewals thereof shall be displayed in a conspicuous place in the funeral establishment where the holder renders service.
  - (2) It shall be unlawful for any railway agent, express agency, baggage master, conductor or other person acting as such, to receive the dead body of any person for shipment or transportation by railway or other public conveyance, to a point outside of this State, unless the body is accompanied by a burial-transit permit.
  - (3) The "transportation or removal of a dead human body" shall mean the removal of a dead human body for a fee from the location of the place of death or discovery of death or the transportation of the body to or from a medical facility, funeral establishment or facility, crematory or related holding facility, place of final disposition, or place designated

- by the Medical Examiner for examination or autopsy of the dead human body.
- (4) Any individual, not otherwise exempt from this subsection, shall apply for and receive a permit from the Board before engaging in the transportation or removal of a dead human body in this State. Unless otherwise exempt from this subsection, no corporation or other business entity shall engage in the transportation or removal of a dead human body unless it has in its employ at least one individual who holds a permit issued under this section. No individual permit holder shall engage in the transportation or removal of a dead human body for more than one person, firm, or corporation without first providing the Board with written notification of the name and physical address of each such employer.
  - (5) The following persons shall be exempt from the permit requirements of this section but shall otherwise be subject to subdivision (9) of this subsection and any rules relating to the proper handling, care, removal, or transportation of a dead human body:
    - a. Licensees under this Article and their employees.
    - b. Employees of common carriers.
    - c. Except as provided in sub-subdivision (6)c. of this section, employees of the State and its agencies and employees of local governments and their agencies.
    - d. Funeral directors licensed in another state and their employees.
  - (6) The following persons shall be exempt from this section:
    - a. Emergency medical technicians, rescue squad workers, volunteer and paid firemen, and law enforcement officers.
    - b. Employees of public or private hospitals, nursing homes, or long-term care facilities, while handling a dead human body within such facility or while acting within the scope of their employment.
    - c. State and county medical examiners and their investigators.
    - d. Any individual transporting cremated remains.
    - e. Any individual transporting or removing a dead human body of their immediate family or next of kin.
    - f. Any individual who has exhibited special care and concern for the decedent.
  - (7) Individuals eligible to receive a permit under this section for the transportation or removal of a dead human body for a fee, shall:
    - a. Be at least 18 years of age.
    - b. Possess and maintain a valid drivers license issued by this State and provide proof of all liability insurance required for the registration of any vehicle in which the person intends to engage in the business of the removal or transportation of a dead human body.
    - c. Affirmatively state under oath that the person has read and understands the statutes and rules relating to the removal and transportation of dead human bodies and any guidelines as may be adopted by the Board.

- d. Provide three written character references on a form prescribed by the Board, one of which must be from a licensed funeral director.
  - e. Be of good moral character.
- (8) The permit issued under this section shall expire on December 31 of each year. The application fee for the individual permit shall not exceed one hundred twenty-five dollars (\$125.00). A fee, not to exceed one hundred dollars (\$100.00), in addition to the renewal fee not to exceed seventy-five dollars (\$75.00), shall be charged for any application for renewal received by the Board after February 1 of each year.
- (9) No person shall transport a dead human body in the open cargo area or passenger area of a vehicle or in any vehicle in which the body may be viewed by the public. Any person removing or transporting a dead human body shall either cover the body, place it upon a stretcher designed for the purpose of transporting humans or dead human bodies in a vehicle, and secure such stretcher in the vehicle used for transportation, or shall enclose the body in a casket or container designed for common carrier transportation, and secure the casket or container in the vehicle used for transportation. No person shall fail to treat a dead human body with respect at all times. ~~use profanity, indecent, or obscene language in the presence of a dead human body.~~ No person shall take a photograph or video recording of a dead human body without the consent of a member of the deceased's immediate family or next of ~~kin~~ kin or other authorizing agent.
- (10) The Board may adopt rules under this section including permit application procedures and the proper procedures for the removal, handling, and transportation of dead human bodies. The Board shall consult with the Office of the Chief Medical Examiner before initiating rule making under this section and before adopting any rules pursuant to this section. Nothing in this section prohibits the Office of the Chief Medical Examiner from adopting policies and procedures regarding the removal, transportation, or handling of a dead human body under the jurisdiction of that office that are more stringent than the laws in this section or any rules adopted under this section. Any violation of this section or rules adopted under this section may be punished by the Board by a suspension or revocation of the permit to transport or remove dead human bodies or by a term of probation. The Board may, in lieu of any disciplinary measure, accept a penalty not to exceed five thousand dollars (\$5,000) per violation.
- (11) Each applicant for a permit shall provide the Board with the applicant's home address, name and address of any corporation or business entity employing such individual for the removal or transportation of dead human bodies, and the make, year, model, and license plate number of any vehicle in which a dead human body is transported. A permittee shall provide written notification to the Board of any change in the information required to be provided to the Board by this section or by the application for a permit within 30 days after such change takes place.



- (12) If any person shall engage in or hold himself out as engaging in the business of transportation or removal of a dead human body without first having received a permit under this section, the person shall be guilty of a Class 2 misdemeanor.
- (13) The Board shall have the authority to inspect any place or premises that the business of removing or transporting a dead human body is carried out and shall also have the right of inspection of any vehicle and equipment used by a permittee for the removal or transportation of a dead human body.
- (d) Establishment Permit. –
- (1) No person, firm or corporation shall conduct, maintain, manage or operate a funeral establishment unless a permit for that establishment has been issued by the Board and is conspicuously displayed in the establishment. Each funeral establishment at a specific location shall be deemed to be a separate entity and shall require a separate permit and compliance with the requirements of this Article.
- (2) A permit shall be issued when:
- It is shown that the funeral establishment has in charge a person, known as a manager, licensed for the practice of funeral directing or funeral service, who shall not be permitted to manage more than one funeral establishment.
  - The Board receives a list of the names of all part-time and full-time licensees employed by the establishment.
  - It is shown that the funeral establishment satisfies the requirements of G.S. 90-210.27A.
  - The Board receives payment of the permit fee.
- (3) Applications for funeral establishment permits shall be made on forms provided by the Board and filed with the Board by the owner, a partner, a member of the limited liability company, or an officer of the corporation by January 1 of each year, and shall be accompanied by the application fee or renewal fee, as the case may be. All permits shall expire on December 31 of each year. If the renewal application and renewal fee are not received in the Board's office on or before February 1, a late renewal fee, ~~A penalty for late renewal,~~ in addition to the regular renewal fee, shall be ~~charged for renewal of registration received after the first day of February.~~ charged.
- (4) The Board may suspend or revoke a permit when an owner, partner, manager, member, operator, or officer of the funeral establishment violates any provision of this Article or any regulations of the Board, or when any agent or employee of the funeral establishment, with the consent of any person, firm or corporation operating the funeral establishment, violates any of those provisions, rules or regulations.
- (5) Funeral establishment permits are not transferable. A new application for a permit shall be made to the Board within 30 days of a change of ownership of a funeral establishment.
- (d1) Embalming Outside Establishment. – An embalmer who engages in embalming in a facility other than a funeral establishment or in the residence of the deceased person shall, no later than January 1 of each year, register the facility with the Board on forms provided by the Board.

- (e) Revocation; Suspension; Compromise; Disclosure. –
- (1) Whenever the Board finds that an applicant for a license or a person to whom a license has been issued by the Board is guilty of any of the following acts or omissions and the Board also finds that the person has thereby become unfit to practice, the Board may suspend or revoke the license or refuse to issue or renew the license, in accordance with the procedures set out in Chapter ~~150B~~150B of the General Statutes:
- a. Conviction of a felony or a crime involving fraud or moral turpitude.
  - b. Fraud or misrepresentation in obtaining or renewing a license or in the practice of funeral service.
  - c. False or misleading advertising as the holder of a license.
  - d. Solicitation of dead human bodies by the licensee, his agents, assistants, or employees; but this paragraph shall not be construed to prohibit general advertising by the licensee.
  - e. Employment directly or indirectly of any resident trainee agent, assistant or other person, on a part-time or full-time basis, or on commission, for the purpose of calling upon individuals or institutions by whose influence dead human bodies may be turned over to a particular licensee.
  - f. ~~The direct or indirect giving of certificates of credit or the payment or offer of payment of a commission by the licensee, his agents, assistants or employees for the purpose of securing business.~~business except as authorized by Article 13D of this Chapter.
  - g. Gross immorality, including being under the influence of alcohol or drugs while practicing funeral service.
  - h. Aiding or abetting an unlicensed person to perform services under this Article, including the use of a picture or name in connection with advertisements or other written material published or caused to be published by the licensee.
  - i. Failing to treat a dead human body with respect at all times. ~~Using profane, indecent or obscene language in the presence of a dead human body, and within the immediate hearing of the family or relatives of a deceased, whose body has not yet been interred or otherwise disposed of.~~
  - j. Violating or cooperating with others to violate any of the provisions of this Article, the rules and regulations of the Board, or the standards set forth in Funeral Industry Practices, 16 C.F.R. 453 (1984), as amended from time to time.
  - k. Violation of any State law or municipal or county ordinance or regulation affecting the handling, custody, care or transportation of dead human bodies.
  - l. Refusing to surrender promptly the custody of a dead human body upon the express order of the person lawfully entitled to the custody thereof.
  - m. Knowingly making any false statement on a certificate of death.
  - n. Indecent exposure or exhibition of a dead human body while in the custody or control of a licensee.

In any case in which the Board is entitled to suspend, revoke or refuse to renew a license, the Board may accept from the licensee an offer to pay a penalty of not more than five thousand dollars (\$5,000). The Board may either accept a penalty or revoke or refuse to renew a license, but not both.

- (2) Where the Board finds that a licensee is guilty of one or more of the acts or omissions listed in subdivision (e)(1) of this section but it is determined by the Board that the licensee has not thereby become unfit to practice, the Board may place the licensee on a term of probation in accordance with the procedures set out in Chapter ~~150B~~150B of the General Statutes. In any case in which the Board is entitled to place a licensee on a term of probation, the Board may also impose a penalty of not more than five thousand dollars (\$5,000) in conjunction with the probation.

No person licensed under this Article shall remove or cause to be embalmed a dead human body when he or she has information indicating crime or violence of any sort in connection with the cause of death, nor shall a dead human body be cremated, until permission of the State or county medical examiner has first been obtained. However, nothing in this Article shall be construed to alter the duties and authority now vested in the office of the coroner.

No funeral service establishment shall accept a dead human body from any public officer (excluding the State or county medical examiner or his agent), or employee or from the official of any institution, hospital or nursing home, or from a physician or any person having a professional relationship with a decedent, without having first made due inquiry as to the desires of the persons who have the legal authority to direct the disposition of the decedent's body. If any persons are found, their authority and directions shall govern the disposal of the remains of the decedent. Any funeral service establishment receiving the remains in violation of this subsection shall make no charge for any service in connection with the remains prior to delivery of the remains as stipulated by the persons having legal authority to direct the disposition of the body. This section shall not prevent any funeral service establishment from charging and being reimbursed for services rendered in connection with the removal of the remains of any deceased person in case of accidental or violent death, and rendering necessary professional services required until the persons having legal authority to direct the disposition of the body have been notified.

When and where a licensee presents a selection of funeral merchandise to the public to be used in connection with the service to be provided by the licensee or an establishment as licensed under this Article, a card or brochure shall be directly associated with each item of merchandise setting forth the price of the service using said merchandise and listing the services and other merchandise included in the price, if any. When there are separate prices for the merchandise and services, such cards or brochures shall indicate the price of the merchandise and of the items separately priced.

At the time funeral arrangements are made and prior to the time of rendering the service and providing the merchandise, a funeral director or funeral service licensee shall give or cause to be given to the person or persons making such arrangements a written statement duly signed by a licensee of said funeral establishment showing the price of the service as selected and what services are included therein, the price of each of the supplemental items of services or merchandise requested, and the amounts involved for each of the items for which the funeral establishment will advance moneys

as an accommodation to the person making arrangements, insofar as any of the above items can be specified at that time. The statement shall have printed, typed or stamped on the face thereof: "This statement of disclosure is provided under the requirements of North Carolina G.S. 90-210.25(e)."

(f) Unlawful Practices. – If any person shall practice or hold himself out as practicing the profession or art of embalming, funeral directing or practice of funeral service without having complied with the licensing provisions of this Article, he shall be guilty of a Class 2 misdemeanor.

(g) Whenever it shall appear to the Board that any person, firm or corporation has violated, threatens to violate or is violating any provisions of this Article, the Board may apply to the courts of the State for a restraining order and injunction to restrain these practices. If upon application the court finds that any provision of this Article is being violated, or a violation is threatened, the court shall issue an order restraining and enjoining the violations, and this relief may be granted regardless of whether criminal prosecution is instituted under the provisions of this subsection. The venue for actions brought under this subsection shall be the superior court of any county in which the acts are alleged to have been committed or in the county where the defendant in the action resides."

**SECTION 8.(a)** Chapter 65 of the General Statutes is amended by adding the following new Article to read:

"Article 11.

"Minimum Burial Depth."

**SECTION 8.(b)** G.S. 90-210.25A is recodified as G.S. 65-77 in Article 11 of Chapter 65 of the General Statutes, as enacted by Section 8(a) of this act.

**SECTION 9.(a)** G.S. 90-210.27A(g) reads as rewritten:

"(g) No funeral establishment or other licensee under this Article shall own, operate, or maintain a funeral chapel without first having registered the name, location, and ownership thereof with the ~~Board~~Board; own or maintain more than two funeral chapels, or own or maintain a funeral chapel outside of a radius of 50 miles from the funeral establishment. A duly licensed person may use a funeral chapel for making arrangements for funeral service, selling funeral supplies to the public, or making financial arrangements for the rendering of such service or sale of supplies, provided that such uses are secondary and incidental to and do not interfere with the reposing of dead human bodies, visitation, or funeral ceremony."

**SECTION 9.(b)** G.S. 90-210.27A is amended by adding the following new subsections to read:

"(i) No funeral establishment shall use an unregistered or misleading name. Misleading names include, but are not limited to, names in the plural form when there is only one funeral establishment and the use of the word "crematory" or "crematorium" in the name of a funeral establishment that does not own a crematory. If an owner of a funeral establishment owns more than one funeral establishment, the owner may not use the word "crematory" or "crematorium" in the name of more than one of its funeral establishments; except that each funeral home having a crematory on the premises may contain the term "crematory" or "crematorium" in its name.

(j) A funeral establishment will not use any name other than the name by which it is properly registered with the Board."

**SECTION 10.** G.S. 90-210.29A reads as rewritten:

**"§ 90-210.29A. Identification of bodies before burial or cremation.**

The funeral director or person otherwise responsible for the final disposition of a dead body shall, prior to the interment or entombment of the dead body, affix on the ankle or wrist of the dead body, or, if cremated, on the inside of the ~~vessel~~ temporary container or urn containing the remains of the dead body, a tag of durable, noncorroding material permanently marked with the name of the deceased, the date of death, the social security number of the deceased, the county and state of death, and the site of interment or entombment."

**SECTION 11.** G.S. 90-210.63(a)(2) reads as rewritten:

**"§ 90-210.63. Substitution of licensee.**

(a) If the preneed funeral contract is irrevocable, the preneed funeral contract purchaser, or after his death the preneed funeral contract beneficiary or his legal representative, upon written notice to the financial institution or insurance company and the preneed licensee who is a party to the preneed funeral contract, may direct the substitution of a different funeral establishment to furnish funeral services and merchandise.

...

(2) The original contracting preneed licensee shall immediately pay all funds received to the successor funeral establishment designated. Regardless of whether the substitution is made before or after the death of the preneed funeral contract beneficiary, the original contracting preneed licensee shall not be required to give credit for the amount retained pursuant to G.S. 90-210.61(a)(2), except when there was a substitution under G.S. 90-210.68(d1) and (e). ~~Except when there was a substitution under G.S. 90-210.68(d1) and (e), if the original contracting preneed licensee did not retain any portion of payments made as is permitted by G.S. 90-210.61(a)(2) then the preneed licensee may retain up to ten percent (10%) of the funds received from the financial institution.~~ Upon making payments pursuant to this subsection, the financial institution and the original contracting preneed licensee shall be relieved from all further contractual liability thereon.

...."

**SECTION 12.** G.S. 90-210.64(a) reads as rewritten:

"(a) After the death of a preneed funeral contract beneficiary and full performance of the preneed funeral contract by the preneed licensee, the preneed licensee shall promptly complete a certificate of performance ~~or similar claim form~~ and present it to the financial institution that holds funds in trust under G.S. 90-210.61(a)(1) or to the insurance company that issued a preneed insurance policy pursuant to G.S. 90-210.61(a)(3). Upon receipt of the certificate of performance or similar claim form, the financial institution shall pay the trust funds to the contracting preneed licensee and the insurance company shall pay the insurance proceeds according to the terms of the policy. Within 10 days after receiving payment, the preneed licensee shall mail a copy of the certificate of performance or other claim form to the Board."

**SECTION 13.** G.S. 90-210.65(e) reads as rewritten:

"(e) This section shall not apply to irrevocable preneed funeral contracts. Irrevocable preneed funeral contracts may not be revoked nor any proceeds refunded except by order of a court of competent jurisdiction. Notwithstanding the previous

sentence, irrevocable preneed funeral contracts purchased pursuant to G.S. 90-210.61(a)(3) shall also be revocable when the underlying insurance policy lapses or is otherwise cancelled and the lapsed or cancelled policy no longer provides any funding for the preneed funeral contract."

**SECTION 14.** G.S. 90-210.67(e) and (f) are repealed.

**SECTION 15.** G.S. 90-210.70 is amended by adding the following new subsection to read:

"(e) Whenever it shall appear to the Board that any person, firm, or corporation has violated, threatens to violate, or is violating any provisions of this Article, the Board may apply to the courts of the State for a restraining order and injunction to restrain these practices. If upon application the court finds that any provision of this Article is being violated, or a violation is threatened, the court shall issue an order restraining and enjoining the violations, and this relief may be granted regardless of whether criminal prosecution is instituted under the provisions of this subsection. The venue for actions brought under this subsection shall be the superior court of any county in which the acts are alleged to have been committed or in the county where the defendant in the action resides."

**SECTION 16.** G.S. 143B-472.5, as recodified by Section 17 of this act, reads as rewritten:

**"§ 90-210.83. Assessments against ~~association for expenses of Board of Mortuary Science~~ associations.**

~~In order to meet the expenses of the supervision of the burial associations, the Board of Mortuary Science shall prepare an annual budget for the office of the Board of Mortuary Science. Thereafter, the Board of Mortuary Science shall~~ The North Carolina Board of Funeral Service shall annually assess each burial association one hundred dollars (\$100.00) plus an amount not to exceed fifty cents (50¢) per member, and shall prorate the remaining amount of this budget, over and above any other funds made available to it for this purpose, and assess each association on a pro rata basis in accordance with the number of members of each association. Each burial association shall remit to the Board of Mortuary Science-Funeral Service its pro rata part of the total assessment, which expense shall be included in the thirty per centum (30%) expense allowance as provided in G.S. 143B-472.3-90-210.81. This assessment shall be made on the first day of July of each and every year and said assessment shall be paid within 30 days thereafter. If any association shall fail or refuse to pay such assessment within 30 days, the Board of Mortuary Science-Funeral Service is authorized to transfer all memberships and assets of every kind and description to the nearest association that is found by the Board of Mortuary Science-Funeral Service to be in good sound financial condition."

**SECTION 17.(a)** Chapter 90 of the General Statutes is amended by adding the following new Article to read:

"Article 13E.

"Mutual Burial Associations."

**SECTION 17.(b)** G.S. 143B-472.2 through G.S. 143B-472.29 are recodified as G.S. 90-210.80 through G.S. 90-210.107 in Article 13E of Chapter 90 of the General Statutes, as enacted by Section 17(a) of this act. The Revisor of Statutes is authorized to make changes to statutory cross-references that will reflect the results of the recodification.

**SECTION 18.** This act becomes effective October 1, 2003.

In the General Assembly read three times and ratified this the 18<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 1:10 p.m. on the 14<sup>th</sup> day of August, 2003.

**S.B. 583**

**Session Law 2003-421**

AN ACT TO PROTECT CHILDREN IN THE PUBLIC SCHOOLS FROM EXPOSURE TO TOBACCO BY REQUIRING LOCAL BOARDS OF EDUCATION TO ADOPT WRITTEN POLICIES PROHIBITING THE USE OF TOBACCO PRODUCTS IN PUBLIC SCHOOL BUILDINGS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Chapter 115C of the General Statutes is amended by adding the following new Article to read:

"Article 29A.

"Policy Prohibiting Use of Tobacco Products.

**"§ 115C-407. Policy prohibiting tobacco use in school buildings.**

Local boards of education shall adopt and enforce a written policy providing for enforcement of federal requirements under the Pro-Children Act of 1994, 20 U.S.C. § 6083, prohibiting smoking within any school building used to provide routine or regular kindergarten, elementary, or secondary education or library services to children.

The policy shall further prohibit the use of all tobacco products in enclosed school buildings during regular school hours, and shall include:

- (1) Adequate notice to students and school personnel of the policy.
- (2) Posting of signs regarding the use of tobacco products by any person.
- (3) Requirements that school personnel enforce the policy.

The policy may permit tobacco products to be included in instructional or research activities in public school buildings if the activity is conducted or supervised by the faculty member overseeing the instruction or research and the activity does not include smoking, chewing, or otherwise ingesting the tobacco product.

Nothing in this section, G.S. 143-595 through G.S. 143-601, or any other section prohibits a local board of education from adopting and enforcing a more restrictive policy on the use of tobacco in school buildings, in school facilities, on school campuses, or at school-related or school-sponsored events, and in or on other school property."

**SECTION 2.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 16<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 2:00 p.m. on the 14<sup>th</sup> day of August, 2003.

AN ACT TO PROVIDE FOR IMPROVED STAGGERED TERMS OF THE MEMBERS OF THE CLEAN WATER MANAGEMENT FUND BOARD OF TRUSTEES, TO INCREASE THE NUMBER OF MEMBERS OF THE BOARD, AND TO MAKE APPOINTMENTS TO THE BOARD.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 113-145.5 reads as rewritten:

**"§ 113-145.5. Clean Water Management Trust Fund: Board of Trustees established; membership qualifications; vacancies; meetings and meeting facilities.**

(a) Board of Trustees Established. – There is established the Clean Water Management Trust Fund Board of Trustees. The Clean Water Management Trust Fund Board of Trustees shall be ~~independent, but for administrative purposes shall be administratively located under within~~ the Department of Environment and Natural Resources. ~~Resources~~ but shall be independent of the Department.

(b) Membership. – The Clean Water Management Trust Fund Board of Trustees shall be composed of ~~18 members. Six members shall be appointed by the Governor, six by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121, and six by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121.~~ 21 members appointed to four-year terms as follows:

- (1) One member appointed by the Governor to a term that expires on 1 July of years that precede by one year those years that are evenly divisible by four.
- (2) One member appointed by the Governor to a term that expires on 1 July of years that precede by one year those years that are evenly divisible by four.
- (3) One member appointed by the Governor to a term that expires on 1 July of years that are evenly divisible by four.
- (4) One member appointed by the Governor to a term that expires on 1 July of years that are evenly divisible by four.
- (5) One member appointed by the Governor to a term that expires on 1 July of years that follow by one year those years that are evenly divisible by four.
- (6) One member appointed by the Governor to a term that expires on 1 July of years that follow by two years those years that are evenly divisible by four.
- (7) One member appointed by the Governor to a term that expires on 1 July of years that follow by two years those years that are evenly divisible by four.
- (8) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on 1 July of years that precede by one year those years that are evenly divisible by four.
- (9) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term



- that expires on 1 July of years that precede by one year those years that are evenly divisible by four.
- (10) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on 1 July of years that are evenly divisible by four.
- (11) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on 1 July of years that follow by one year those years that are evenly divisible by four.
- (12) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on 1 July of years that follow by one year those years that are evenly divisible by four.
- (13) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on 1 July of years that follow by two years those years that are evenly divisible by four.
- (14) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on 1 July of years that follow by two years those years that are evenly divisible by four.
- (15) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on 1 July of years that precede by one year those years that are evenly divisible by four.
- (16) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on 1 July of years that are evenly divisible by four.
- (17) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on 1 July of years that are evenly divisible by four.
- (18) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on 1 July of years that follow by one year those years that are evenly divisible by four.
- (19) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on 1 July of years that follow by one year those years that are evenly divisible by four.
- (20) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on 1 July of years that follow by two years those years that are evenly divisible by four.
- (21) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on 1 July of years that follow by two years those years that are evenly divisible by four.

(b1) Qualifications. – The office of Trustee is declared to be an office that may be held concurrently with any other executive or appointive office, under the authority of Article VI, Section 9, of the North Carolina Constitution. Persons appointed shall be knowledgeable in at least one of the following areas:

- (1) Acquisition and management of natural areas.
- (2) Conservation and restoration of water quality.
- (3) Wildlife and fisheries habitats and resources.
- (4) Environmental management.

(c) ~~Initial Appointments. Chair.~~ – ~~Each appointing officer shall designate two of the officer's initial appointments to serve two-year terms, two to serve four-year terms, and two to serve six-year terms. Thereafter, all appointments shall be for four years, subject to reappointment. All initial appointments shall be made on or before January 1, 1997. The Governor shall appoint one Trustee member to serve as Chair of the Board.~~ Board of Trustees.

(d) ~~Vacancies.~~ – ~~If a vacancy occurs, other than by the expiration of term, of a member subject to appointment by the General Assembly upon the recommendation of the Speaker of the House of Representatives or the President Pro Tempore of the Senate, the vacancy shall be filled in accordance with G.S. 120-122. All other vacancies shall be filled by the appointing official in the original manner. An appointment to fill a vacancy on the Board of Trustees created by the resignation, removal, disability, or death of a member shall be for the balance of the unexpired term. Vacancies in appointments made by the General Assembly shall be filled as provided in G.S. 120-122.~~

(e) Frequency of Meetings. – The Board of Trustees shall meet at least twice each year and may hold special meetings at the call of the Chair or a majority of the members.

(e1) Quorum. – A majority of the membership of the Board of Trustees constitutes a quorum for the transaction of business.

(f) Per Diem and Expenses. – ~~The Trustees~~ Each member of the Board of Trustees shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5. Per diem, subsistence, and travel expenses of the Trustees shall be paid from the Fund.

(g) Meeting Facilities. – The Secretary of Environment and Natural Resources shall provide meeting facilities for the Board of Trustees and its staff as requested by the Chair."

**SECTION 2.** In order to alter the schedule of staggered terms of four years for the Clean Water Management Trust Fund Board of Trustees so that, as nearly as possible, the same number of terms will expire each year and to provide for an orderly transition in membership of the Board of Trustees to the terms specified in G.S. 113-145.5, as amended by Section 1 of this act, the following provisions shall apply:

- (1) Philip A. Baddour shall serve in the position established by G.S. 113-145.5(b)(1) through 1 July 2007.
- (2) Joseph M. Hester, Jr. shall serve in the position established by G.S. 113-145.5(b)(2) through 1 July 2007.
- (3) John McMillan shall serve in the position established by G.S. 113-145.5(b)(3) through 1 July 2008.

- (4) Robert Stanley Vaughan shall serve in the position established by G.S. 113-145.5(b)(4) through 1 July 2008.
- (5) The Governor shall appoint a member to serve in the position established by G.S. 113-145.5(b)(5) through 1 July 2005.
- (6) The Governor shall appoint a member to serve in the position established by G.S. 113-145.5(b)(6) through 1 July 2006.
- (7) The Governor shall appoint a member to serve in the position established by G.S. 113-145.5(b)(7) through 1 July 2006.
- (8) Alex MacFadyen of Wake County is appointed to the position established by G.S. 113-145.5(b)(8) to serve through 1 July 2007.
- (9) Johnnie Mosley shall serve in the position established by G.S. 113-145.5(b)(9) through 1 July 2007.
- (10) William E. Hollan, Jr. shall serve in the position established by G.S. 113-145.5(b)(10) through 1 July 2004.
- (11) William J. Brooks, III shall serve in the position established by G.S. 113-145.5(b)(11) through 1 July 2005.
- (12) Dickson McLean, Jr. shall serve in the position established by G.S. 113-145.5(b)(12) through 1 July 2005.
- (13) Claudette Weston shall serve in the position established by G.S. 113-145.5(b)(13) through 1 July 2006.
- (14) Jerry W. Wright shall serve in the position established by G.S. 113-145.5(b)(14) through 1 July 2006.
- (15) Clarence Leroy Smith shall serve in the position established by G.S. 113-145.5(b)(15) through 1 July 2003. Clarence Leroy Smith of Pitt County is reappointed to serve in the position established by G.S. 113-145.5(b)(15) through 1 July 2007.
- (16) Charles R. Wakild shall serve in the position established by G.S. 113-145.5(b)(16) through 1 July 2003. Anthony T. Lathrop of Mecklenburg County is appointed to serve in the position established by G.S. 113-145.5(b)(16) through 1 July 2008.
- (17) Edmond John Maguire III of Moore County is appointed to serve in the position established by G.S. 113-145.5(b)(17) through 1 July 2008.
- (18) Robert Dare Howard shall serve in the position established by G.S. 113-145.5(b)(18) through 1 July 2005.
- (19) Margaret B. Markey shall serve in the position established by G.S. 113-145.5(b)(19) through 1 July 2005.
- (20) Allen Holt Gwyn shall serve in the position established by G.S. 113-145.5(b)(20) through 1 July 2003. Ronald L. Smith of Carteret County is appointed to serve in the position established by G.S. 113-145.5(b)(20) through 1 July 2006.
- (21) Karen Cragnolin shall serve in the position established by G.S. 113-145.5(b)(21) through 1 July 2003. Karen Cragnolin of Buncombe County is reappointed to serve in the position established by G.S. 113-145.5(b)(21) through 1 July 2006.

**SECTION 3.** This act is effective retroactively to 1 July 2003 except that this act is effective retroactively to 31 December 2002 with respect to the term of any person named in Section 2 of this act whose term as a member of the Clean Water

Management Trust Fund Board of Trustees would have expired on 31 December 2002 if this act had not become law.

In the General Assembly read three times and ratified this the 18<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 2:02 p.m. on the 14<sup>th</sup> day of August, 2003.

**S.B. 965****Session Law 2003-423**

AN ACT TO AMEND THE NORTH CAROLINA CONSTITUTION TO PROVIDE THAT THE GENERAL ASSEMBLY MAY PLACE THE CLEAR PROCEEDS OF CIVIL PENALTIES, CIVIL FORFEITURES, AND CIVIL FINES COLLECTED BY A STATE AGENCY IN A STATE FUND TO BE USED EXCLUSIVELY FOR MAINTAINING FREE PUBLIC SCHOOLS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Section 7 of Article IX of the North Carolina Constitution reads as rewritten:

**"Sec. 7. County school fund; State fund for certain moneys.**

(a) All-Except as provided in subsection (b) of this section, all moneys, stocks, bonds, and other property belonging to a county school fund, and the clear proceeds of all penalties and forfeitures and of all fines collected in the several counties for any breach of the penal laws of the State, shall belong to and remain in the several counties, and shall be faithfully appropriated and used exclusively for maintaining free public schools.

(b) The General Assembly may place in a State fund the clear proceeds of all civil penalties, forfeitures, and fines which are collected by State agencies and which belong to the public schools pursuant to subsection (a) of this section. Moneys in such State fund shall be faithfully appropriated by the General Assembly, on a per pupil basis, to the counties, to be used exclusively for maintaining free public schools."

**SECTION 2.** G.S. 115C-457.1 reads as rewritten:

**"§ 115C-457.1. Creation of Fund; administration.**

(a) There is created the Civil Penalty and Forfeiture Fund. The Fund shall consist of the clear proceeds of all civil ~~penalties and civil forfeitures~~penalties, civil forfeitures, and civil fines that are collected by a State agency and ~~are payable to the County School Fund~~that the General Assembly is authorized to place in a State fund pursuant to Article IX, Section 7-Section 7(b) of the Constitution.

(b) The Fund shall be administered by the Office of State Budget and Management. The Fund and all interest accruing to the Fund shall be faithfully used exclusively for maintaining free public schools."

**SECTION 3.** G.S. 115C-457.2 reads as rewritten:

**"§ 115C-457.2. Remittance of moneys to the Fund.**

The clear proceeds of all civil ~~penalties and civil forfeitures~~penalties, civil forfeitures, and civil fines that are collected by a State agency and ~~are payable to the County School Fund~~that the General Assembly is authorized to place in a State fund pursuant to Article IX, Section 7-Section 7(b) of the Constitution shall be remitted to the Office of State Budget and Management by the officer having custody of the funds

within 10 days after the close of the calendar month in which the revenues were received or collected. Notwithstanding any other law, ~~all funds which are civil penalties or civil forfeitures within the meaning of Article IX, Section 7 of the Constitution~~ all such funds shall be deposited in the Civil Penalty and Forfeiture Fund. The clear proceeds of ~~such these~~ funds include the full amount of all ~~such penalties and forfeitures~~ civil penalties, civil forfeitures, and civil fines collected under authority conferred by the State, diminished only by the actual costs of collection, not to exceed ten percent (10%) of the amount collected."

**SECTION 3.1.** G.S. 115C-238.29H(b) reads as rewritten:

"(b) If a student attends a charter school, the local school administrative unit in which the child resides shall transfer to the charter school an amount equal to the per pupil local current expense appropriation to the local school administrative unit for the fiscal year. The amount transferred under this subsection that consists of revenue derived from supplemental taxes shall be transferred only to a charter school located in the tax district for which these taxes are levied and in which the student resides."

**SECTION 3.2.** G.S. 115C-457.3 reads as rewritten:

"§ **115C-457.3. Transfer of funds to the State School Technology Fund.**

The Office of State Budget and Management shall transfer funds accruing to the Civil Penalty and Forfeiture Fund to the State School Technology Fund. These funds shall be allocated to ~~local school administrative units~~ counties on the basis of average daily membership. These funds shall be distributed to the counties to be allocated to the public schools, including charter schools, in the same manner as provided under G.S. 115C-452."

**SECTION 4.** The amendment set out in Section 1 of this act shall be submitted to the qualified voters of the State at the statewide general election in November of 2004, which election shall be conducted under the laws then governing elections in the State. Ballots, voting systems, or both may be used in accordance with Chapter 163 of the General Statutes. The question to be used in the voting systems and ballots shall be:

"[ ] FOR [ ] AGAINST

Constitutional amendment to provide that the General Assembly may place the clear proceeds of civil penalties, civil forfeitures, and civil fines collected by a State agency in a State fund to be used exclusively for maintaining free public schools."

**SECTION 5.** If a majority of votes cast on the question are in favor of the amendment set out in Section 1 of this act, the State Board of Elections shall certify the amendment to the Secretary of State. The Secretary of State shall enroll the amendment so certified among the permanent records of that office. The amendment set out in Section 1 of this act shall become effective January 1, 2005.

**SECTION 6.** Sections 2 through 3 of this act become effective only if the voters approve the constitutional amendment set out in Section 1 of this act. If the voters approve the constitutional amendment, Sections 2 through 3 of this act shall become effective January 1, 2005.

**SECTION 7.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 18<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 2:31 p.m. on the 14<sup>th</sup> day of August, 2003.

AN ACT TO INCREASE THE FEE FOR A PERSONALIZED REGISTRATION PLATE BY TEN DOLLARS AND TO CREDIT THE INCREASED FEE REVENUE TO THE NATURAL HERITAGE TRUST FUND AND THE PARKS AND RECREATION TRUST FUND, TO REQUIRE THE JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE TO STUDY VARIOUS ISSUES RELATED TO SPECIAL REGISTRATION PLATES, TO ALLOW THE NC COASTAL FEDERATION SPECIAL PLATE TO HAVE A DIFFERENT PLATE BACKGROUND, AND TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE THE FOLLOWING NEW SPECIAL REGISTRATION PLATES: ALTERNATIVE FUEL VEHICLES, BE ACTIVE NC, BLUE RIDGE PARKWAY FOUNDATION, BREAST CANCER AWARENESS, BUFFALO SOLDIERS, CELEBRATE ADOPTION, CRYSTAL COAST ARTIFICIAL REEF ASSOCIATION, DELTA SIGMA THETA SORORITY, FRATERNAL ORDER OF POLICE, FRIENDS OF THE APPALACHIAN TRAIL, MOTHERS AGAINST DRUNK DRIVING, POW/MIA, RED HAT SOCIETY, RETIRED LAW ENFORCEMENT OFFICERS, SURVEYORS, AND ZETA PHI BETA SORORITY.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 20-63(b) reads as rewritten:

"(b) Every license plate shall have displayed upon it the registration number assigned to the vehicle for which it is issued, the name of the State of North Carolina, which may be abbreviated, and the year number for which it is issued or the date of expiration. A plate issued for a commercial vehicle, as defined in G.S. 20-4.2(1), and weighing 26,001 pounds or more, must bear the word "commercial," unless the plate is a special registration plate authorized in G.S. 20-79.4 or the commercial vehicle is a trailer or is licensed for 6,000 pounds or less. The plate issued for vehicles licensed for 7,000 pounds through 26,000 pounds must bear the word "weighted".

~~A-Except as otherwise provided in this subsection, a registration plate issued by the Division for a private passenger vehicle or for a private hauler vehicle licensed for 6,000 pounds or less, other than a Friends of the Great Smoky Mountains National Park special registration plate or a Rocky Mountain Elk Foundation special registration plate less shall be a "First in Flight" plate. A "First in Flight" plate shall have the words "First in Flight" printed at the top of the plate above all other letters and numerals. The background of the plate shall depict the Wright Brothers biplane flying over Kitty Hawk Beach, with the plane flying slightly upward and to the right. The following special registration plates do not have to be a "First in Flight" plate. The design of the plates that are not "First in Flight" plates must be approved by the Division and the State Highway Patrol for clarity and ease of identification.~~

- (1) Friends of the Great Smoky Mountains National Park.
- (2) Rocky Mountain Elk Foundation.
- (3) Blue Ridge Parkway Foundation.
- (4) Friends of the Appalachian Trail.
- (5) NC Coastal Federation."

**SECTION 2.** G.S. 20-79.4(b), as amended by S.L. 2003-10, 2003-11, and 2003-68, is amended by adding the following new subdivisions to read:

"(b) Types. – The Division shall issue the following types of special registration plates:

- ...
- (1e) Alternative Fuel Vehicles. – Issuable to the registered owner of an alternative fuel vehicle. The plate shall bear the words "Alternative Fuel Vehicle". The Division must receive 300 or more applications for the plate before it may be developed.
- ...
- (3e) Be Active NC. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the phrase "Be Active NC" and a representation of the "Be Active NC" logo.
- ...
- (3h) Breast Cancer Awareness. – Issuable to the registered owner of a motor vehicle. The plate shall bear the phrase "Early Detection Saves Lives" and a representation of a pink ribbon. The Division must receive 300 or more applications for the plate before it may be developed.
- ...
- ~~(3d)~~(3j) Bronze Star Recipient. – Issuable to a recipient of the Bronze Star. The plate shall bear the emblem of the Bronze Star and the words "Bronze Star".
- ...
- (3m) Buffalo Soldiers. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the words "The Buffalo Soldiers" and the logo of the 9th & 10th (Horse) Cavalry Association of the Buffalo Soldiers Greater North Carolina Chapter (BSGNCC).
- ...
- (3p) Celebrate Adoption. – Issuable to the registered owner of a motor vehicle. The plate shall bear the phrase "Celebrate Adoption" and a representation of a white ribbon with a red heart on it. The Division must receive 300 or more applications for the plate before it may be developed.
- ...
- (11d) Crystal Coast. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the words "Crystal Coast Artificial Reef Association" and a representation of a SCUBA diving flag.
- ...
- (11g) Delta Sigma Theta Sorority. – Issuable to the registered owner of a motor vehicle. The plate shall bear the sorority's name and symbol. The Division must receive 300 or more applications for the plate before it may be developed.
- ...
- (15e) Fraternal Order of Police. – The plate authorized by this subdivision shall bear a representation of the Fraternal Order of Police emblem containing the letters 'FOP'. The Division must receive 300

applications for the plate before it may be developed. The plate is issuable to one of the following:

- a. A person who presents proof of active membership in the State Lodge, Fraternal Order of Police for the year in which the license plate is sought.
- b. The surviving spouse of a person who was a member of the State Lodge, Fraternal Order of Police, so long as the surviving spouse continues to renew the plate and does not remarry.

...

(27e) Mothers Against Drunk Driving. – Issuable to the registered owner of a motor vehicle. The plate shall bear the letters "M.A.D.D." and the words "Mothers Against Drunk Driving". The Division must receive 300 or more applications for the plate before it may be developed.

...

(32c) POW/MIA. – Issuable to the owner of a motor vehicle. The plate shall bear the official POW/MIA logo. The Division must receive 300 or more applications for the plate before it may be developed.

...

~~(36)~~(35d) Register of Deeds. – Issuable to a register of deeds. The plate shall bear the words "Register of Deeds" and the letter "R" followed by a number representing the county of the register of deeds. The number of a county shall be the order of the county in an alphabetical list of counties that assigns number one to the first county in the list.

...

(36) Red Hat Society. – Issuable to the registered owner of a motor vehicle. The plate shall bear a representation of The Red Hat Society. The Division shall not use the name and logo of The Red Hat Society, Inc., on the plate unless The Red Hat Society, Inc., licenses, without charge, the State to use the name and logo on the plate. The Division must receive 300 or more applications for the plate before it may be developed.

...

(36b) Retired Law Enforcement Officers. – The plate authorized by this subdivision shall bear the phrase "Retired Law Enforcement Officer" and a representation of a law enforcement badge. The Division must receive 300 or more applications for the plate before it may be developed. The plate is issuable to one of the following:

- a. A retired law enforcement officer presenting to the Division, along with the application for the plate, a copy of the officer's retired identification card or letter of retirement.
- b. The surviving spouse of a person who had a retired law enforcement officer plate at the time of death so long as the surviving spouse continues to renew the plate and does not remarry.

...

~~(36b)~~(36c) Rocky Mountain Elk Foundation. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the phrase "Rocky Mountain Elk Foundation" and a logo approved by the Rocky Mountain Elk Foundation, Inc.



- ...
- ~~(36e)~~(36h) Save the Sea Turtles. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate may bear the phrase "Save the Sea Turtles" and a representation related to sea turtles.
- ...
- (45d) Surveyor Plate. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the words "Following In Their Footsteps" and shall bear a picture of a transit.
- ...
- ~~(45b)~~(45f) Sweet Potato. – Issuable to the registered owner of a motor vehicle. The plate may bear a phrase and picture representing the State's official vegetable, the sweet potato. The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate.
- ...
- ~~(45e)~~(45i) Tobacco Heritage. – Issuable to the registered owner of a motor vehicle. The plate shall bear a picture of a tobacco leaf and plow. The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate.
- ...
- (52) Zeta Phi Beta Sorority. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the sorority's name and symbol."

**SECTION 3.** G.S. 20-79.7(a), as amended by S.L. 2003-11 and 2003-68, reads as rewritten:

"(a) Fees. – Upon request, the Division shall provide and issue free of charge one registration plate to a recipient of the Congressional Medal of Honor, a 100% disabled veteran, and an ex-prisoner of war. All other special registration plates, including additional Congressional Medal of Honor, 100% Disabled Veteran, and Ex-Prisoner of War plates, are subject to the regular motor vehicle registration fee in G.S. 20-87 or G.S. 20-88 plus an additional fee in the following amount:

<u>Special Plate</u>	<u>Additional Fee Amount</u>
<u>Crystal Coast</u>	<u>\$30.00</u>
Historical Attraction	\$30.00
<u>Personalized</u>	<u>\$30.00</u>
State Attraction	\$30.00
<u>Buffalo Soldiers</u>	<u>\$25.00</u>
Collegiate Insignia	\$25.00
Goodness Grows	\$25.00
Kids First	\$25.00
Olympic Games	\$25.00
NC Agribusiness	\$25.00
NC Coastal Federation	\$25.00
Nurses	\$25.00
<b>(Effective until June 30, 2006)</b>	
<u>Rocky Mountain Elk Foundation</u>	<u>\$25.00</u>
Special Olympics	\$25.00
<u>Surveyor Plate</u>	<u>\$25.00</u>

The V Foundation for Cancer Research Division	\$25.00
University Health Systems of Eastern Carolina	\$25.00
Animal Lovers	\$20.00
Audubon North Carolina	\$20.00
<u>Be Active NC</u>	<u>\$20.00</u>
Ducks Unlimited	\$20.00
<b>(Effective until June 30, 2006)</b>	
Harley Owners' Group	\$20.00
First in Forestry	\$20.00
Litter Prevention	\$20.00
March of Dimes	\$20.00
Omega Psi Phi Fraternity	\$20.00
<del>Rocky Mountain Elk Foundation</del>	<del>\$25.00</del>
Save the Sea Turtles	\$20.00
Scenic Rivers	\$20.00
School Technology	\$20.00
Soil and Water Conservation	\$20.00
Special Forces Association	\$20.00
Support Public Schools	\$20.00
Wildlife Resources	\$20.00
<u>Zeta Phi Beta Sorority</u>	<u>\$20.00</u>
<del>Personalized</del>	<del>\$20.00</del>
Active Member of the National Guard	None
100% Disabled Veteran	None
Ex-Prisoner of War	None
Legion of Valor	None
Purple Heart Recipient	None
Silver Star Recipient	None
All Other Special Plates	\$10.00."

**SECTION 4.** G.S. 20-79.7(b), as amended by S.L. 2003-11 and 2003-68, reads as rewritten:

"(b) Distribution of Fees. – The Special Registration Plate Account and the Collegiate and Cultural Attraction Plate Account are established within the Highway Fund. The Division must credit the additional fee imposed for the special registration plates listed in subsection (a) among the Special Registration Plate Account (SRPA), the Collegiate and Cultural Attraction Plate Account (CCAPA), ~~and~~ the Natural Heritage Trust Fund (NHTF), which is established under G.S. 113-77.7, and the Parks and Recreation Trust Fund, which is established under G.S. 113-44.15, as follows:

<u>Special Plate</u>	<u>SRPA</u>	<u>CCAPA</u>	<u>NHTF</u>	<u>PRTF</u>
Animal Lovers	\$10	\$10	0	<u>0</u>
Audubon North Carolina	\$10	\$10	0	<u>0</u>
<u>Be Active NC</u>	<u>\$10</u>	<u>\$10</u>	<u>0</u>	<u>0</u>
<u>Buffalo Soldiers</u>	<u>\$10</u>	<u>\$15</u>	<u>0</u>	<u>0</u>
<u>Crystal Coast</u>	<u>\$10</u>	<u>\$20</u>	<u>0</u>	<u>0</u>
Ducks Unlimited	\$10	\$10	0	<u>0</u>
First in Forestry	\$10	0	\$10	<u>0</u>
Goodness Grows	\$10	\$15	0	<u>0</u>
<b>(Effective until June 30, 2006)</b>				
Harley Owners' Group	\$10	\$10	0	<u>0</u>

Historical Attraction	\$10	\$20	0	<u>0</u>
In-State Collegiate Insignia	\$10	\$15	0	<u>0</u>
Kids First	\$10	\$15	0	<u>0</u>
Litter Prevention	\$10	\$10	0	<u>0</u>
March of Dimes	\$10	\$10	0	<u>0</u>
NC Agribusiness	\$10	\$15	0	<u>0</u>
NC Coastal Federation	\$10	\$15	0	<u>0</u>
Nurses	\$10	\$15	0	<u>0</u>
Olympic Games	\$10	\$15	0	<u>0</u>
Omega Psi Phi Fraternity	\$10	\$10	0	<u>0</u>
Out-of-state Collegiate Insignia	\$10	0	\$15	<u>0</u>
Personalized	\$10	0	<del>\$10</del> \$15	<del>0</del> \$5
<b>(Effective until June 30, 2006)</b>				
Rocky Mountain Elk Foundation	\$10	\$15	0	<u>0</u>
Save the Sea Turtles	\$10	\$10	0	<u>0</u>
Scenic Rivers	\$10	\$10	0	<u>0</u>
School Technology	\$10	\$10	0	<u>0</u>
Soil and Water Conservation	\$10	\$10	0	<u>0</u>
Special Forces Association	\$10	\$10	0	<u>0</u>
Special Olympics	\$10	<del>\$10</del> \$15	0	<u>0</u>
State Attraction	\$10	\$20	0	<u>0</u>
Support Public Schools	\$10	\$10	0	<u>0</u>
<u>Surveyor Plate</u>	<u>\$10</u>	<u>\$15</u>	<u>0</u>	<u>0</u>
The V Foundation for Cancer Research	\$10	\$15	0	<u>0</u>
University Health Systems of Eastern Carolina	\$10	\$15	0	<u>0</u>
Wildlife Resources	\$10	\$10	0	<u>0</u>
<u>Zeta Phi Beta Sorority</u>	<u>\$10</u>	<u>\$10</u>	<u>0</u>	<u>0</u>
All other Special Plates	\$10	0	<del>0</del> 0	<u>0</u>

**SECTION 5.** G.S. 20-81.12(b2) reads as rewritten:

"(b2) State Attraction Plates. – The Division must receive 300 or more applications for a State attraction plate before the plate may be developed. The Division must transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of State attraction plates to the organizations named below in proportion to the number of State attraction plates sold representing that organization:

(1) Blue Ridge Parkway Foundation. – The revenue derived from the special plate shall be transferred quarterly to Blue Ridge Parkway Foundation for use in promoting and preserving the Blue Ridge Parkway as a scenic attraction in North Carolina.

~~(1)~~(1a) Friends of the Great Smoky Mountains National Park. – The revenue derived from the special plate shall be transferred quarterly to the Friends of the Great Smoky Mountains National Park, Inc., to be used for educational materials, preservation programs, capital improvements for the portion of the Great Smoky Mountains National Park that is located in North Carolina, and operating expenses of the Great Smoky Mountains National Park.

(1b) Friends of the Appalachian Trail. – The revenue derived from the special plate shall be transferred quarterly to The Appalachian Trail

Conference to be used for educational materials, preservation programs, trail maintenance, railway and viewshed acquisitions, railway and viewshed easement acquisitions, capital improvements for the portions of the Appalachian Trail and connecting trails that are located in North Carolina, and related administrative and operating expenses.

- (1a)(1c) The North Carolina Arboretum. – The revenue derived from the special plate shall be transferred quarterly to The North Carolina Arboretum Society and used to help the Society obtain grants for the North Carolina Arboretum and for capital improvements to the North Carolina Arboretum.
- (1b)(1d) The North Carolina Maritime Museum. – The revenue derived from the special plate shall be transferred quarterly to Friends of the Museum, North Carolina Maritime Museum, Inc., to be used for educational programs and conservation programs and for operating expenses of the North Carolina Maritime Museum.
- (2) The North Carolina Zoological Society. – The revenue derived from the special plate shall be transferred quarterly to The North Carolina Zoological Society, Incorporated, to be used for educational programs and conservation programs at the North Carolina Zoo at Asheboro and for operating expenses of the North Carolina Zoo at Asheboro."

**SECTION 6.** G.S. 20-81.12, as amended by S.L. 2003-11 and S.L. 2003-68, is amended by adding the following new subsections to read:

"(b26) Be Active NC. – The Division must receive 300 or more applications for the Be Active NC plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of the Be Active NC plates to Be Active North Carolina, Inc., to be used to promote physical activity in North Carolina communities.

(b27) Buffalo Soldiers. – The Division must receive 300 or more applications for the Buffalo Soldiers plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of the Buffalo Soldiers plates to the 9th & 10th (Horse) Cavalry Association of the Buffalo Soldiers Greater North Carolina Chapter (BSGNCC) for its public outreach programs.

(b28) Crystal Coast. – The Division must receive 300 or more applications for the Crystal Coast plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Crystal Coast plates to the Crystal Coast Artificial Reef Association to be used to promote scuba diving off the Crystal Coast.

(b29) Surveyor Plate. – The Division must receive 300 or more applications for a Surveyor plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Surveyor plates to The North Carolina Society of Surveyors Education Foundation, Inc., for public educational programs.

(b30) Zeta Phi Beta Sorority. – The Division must receive 300 or more applications for a Zeta Phi Beta Sorority plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Zeta Phi Beta Sorority plates to the Zeta Phi Beta Sorority

Education Foundation, through the Raleigh office, for the benefit of undergraduate scholarships in this State."

**SECTION 7.** The Joint Legislative Transportation Oversight Committee shall study the following issues related to special registration plates:

- (1) The number of special registration plates that have not received the minimum number of applications in the three years since their authorization and whether to repeal the authority for these plates.
- (2) The registration plate background and other alternative methods of identifying North Carolina vehicles.
- (3) The fees imposed for special plates and the distribution of those fees. The Committee may ask the Division of Motor Vehicles to study the impact of any fee increase on the number of special registration plates issued. The Committee may also require the organizations that receive money from special registration plates to provide a report on the amount of money received by the organization from the sale of its special registration plate and how the organization spends the money it receives from the sale of this plate.

The Committee may report its findings and any recommended legislation to the 2004 Regular Session of the 2003 General Assembly or the 2005 Regular Session of the 2005 General Assembly.

**SECTION 8.** Sections 7 and 8 of this act are effective when they become law. The remainder of this act becomes effective January 1, 2004.

In the General Assembly read three times and ratified this the 20<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 2:40 p.m. on the 14<sup>th</sup> day of August, 2003.

## **H.B. 1194**

## **Session Law 2003-425**

AN ACT TO CREATE THE "E-NC" AUTHORITY TO CONTINUE THE WORK OF THE RURAL INTERNET ACCESS AUTHORITY.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Article 10 of Chapter 143B of the General Statutes is amended by adding a new Part to read:

"Part 2F. e-NC Initiative.

**"§ 143B-437.44. Legislative findings.**

The General Assembly finds that:

- (1) The North Carolina Rural Internet Advisory Authority (RIAA) was created by the General Assembly in S.L. 2000-149 and, in large measure, successfully accomplished the goals set forth for the RIAA and then dissolved as required by law.
- (2) An organized effort must continue to ensure that the citizens of North Carolina keep pace with the ever faster technological changes in telecommunications and information networks in order to assure the economic competitiveness of North Carolina with special focus on rural and urban distressed areas.

- (3) Affordable, high-speed Internet access is a key competitive factor for economic development and quality of life in the New Economy of the global marketplace.
- (4) High-speed Internet access and the broadband applications it delivers are the necessary platforms that will support development of emerging technology-based sectors of great economic promise, for example, biotechnology and nanotechnology, as well as the continued competitiveness of traditional industries.
- (5) The intent of the e-NC Authority is to continue and conclude the work of the North Carolina Rural Internet Access Authority, as specified in G.S. 143B-347.47.

**"§ 143B-437.45. Definitions.**

The following definitions apply in this Part:

- (1) Authority. – The e-NC Authority.
- (2) Commission. – The governing body of the Authority.
- (3) High-speed broadband Internet access. – Internet access with transmission speeds that are consistent with requirements for high-speed broadband Internet access as defined by the Federal Communications Commission from time to time.
- (4) Rural county. – A county with a density of fewer than 250 people per square mile based on the 2000 United States decennial census.
- (5) Distressed urban areas. – Areas where at least one of the following requirements is met: (i) more than ten percent (10%) of children enrolled in public schools meet the requirements for the Food Stamp Program of the United States Department of Agriculture, (ii) ten percent (10%) of the citizens meet the TANF guidelines of the United States Department of Health and Human Services, or (iii) twenty-five percent (25%) of the children in the public school district meet the requirements for a federal government-sponsored free lunch.
- (6) Regional Partnerships. – As defined in G.S. 143B-437.21(6).

**"§ 143B-437.46. e-NC Authority.**

(a) Creation. – The e-NC Authority is created within the Department of Commerce for organizational and budgetary purposes only, and the Commission shall exercise all of its statutory authority under this Part independent of the control of the Department of Commerce. The functions of the Secretary of Commerce are ministerial and shall be performed only pursuant to the direction and policy of the Commission.

The purpose of the Authority is to manage, oversee, promote, and monitor efforts to provide rural counties and distressed urban areas with high-speed broadband Internet access. The Authority shall also serve as the central rural and urban distressed areas Internet access policy planning body of the State and shall communicate and coordinate with State, regional, and local agencies and private entities in order to continue the development and facilitation of a coordinated Internet access policy for the citizens of North Carolina.

(b) Commission. – The Authority shall be governed by a Commission. The Commission shall consist of nine voting members and six non-voting ex officio members, as follows:

- (1) Three members appointed by the Governor.

- (2) Three members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121.
- (3) Three members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121.
- (4) Six ex officio, non-voting members to include the Secretary of Commerce, the State Chief Information Officer, the President of the North Carolina Rural Economic Development Center, Inc., the Executive Director of the North Carolina Justice and Community Development Center, the Executive Director of the North Carolina League of Municipalities, the Executive Director of the North Carolina Association of County Commissioners, or their designees.

It is the intent of the General Assembly that the appointing authorities, in making appointments, shall consider members who represent the geographic, gender, and racial diversity of the State, members who represent rural counties, members who represent distressed urban areas, members who represent the regional partnerships, and members who represent the communications industry. For the purpose of this subsection, the term "communications industry" includes local telephone exchange companies, rural telephone cooperatives, Internet service providers, commercial wireless communications carriers, cable television companies, satellite companies, and other communications businesses.

(c) Oath. – As the holder of an office, each member of the Commission shall take the oath required by Section 7 of Article VI of the North Carolina Constitution before assuming the duties of a Commission member.

(d) Terms; Commencement; Staggering. – Except as provided in subsection (f) of this section, all terms of office shall commence on January 1, 2004. Each appointing officer shall designate one appointee to serve a one-year term. Members may serve up to four consecutive one-year terms. The appointing officers shall designate their remaining appointees to serve three-year terms. Members may serve up to two consecutive three-year terms.

(e) Chair. – The Governor shall designate one of the members appointed by the Governor as the Chair of the Commission.

(f) Vacancies. – All members of the Commission shall remain in office until their successors are appointed and qualify. A vacancy in an appointment made by the Governor shall be filled by the Governor for the remainder of the unexpired term. A vacancy in an appointment made by the General Assembly shall be filled in accordance with G.S. 120-122. A person appointed to fill a vacancy shall qualify in the same manner as a person appointed for a full term.

(g) Removal of Commission Members. – The Governor may remove any member of the Commission for misfeasance, malfeasance, or nonfeasance in accordance with G.S. 143B-13(d). The Governor or the person who appointed a member may remove the member for using improper influence in accordance with G.S. 143B-13(c).

(h) Compensation of the Commission. – No part of the revenues or assets of the Authority shall inure to the benefit of or be distributable to the members of the Commission or officers or other private persons. The members of the Commission shall receive no salary for their services but may receive per diem and allowances in accordance with G.S. 138-5.

(i) Staff. – The North Carolina Rural Economic Development Center, Inc., shall provide administrative and professional staff support for the Authority under contract.

(j) Conflicts of Interest. – Members of the Authority shall comply with the provisions of G.S. 14-234 prohibiting conflicts of interest. In addition, if any member, officer, or employee of the Authority is interested either directly or indirectly, or is an officer or employee of or has an ownership interest in any firm or corporation, not including units of local government, interested directly or indirectly, in any contract with the Authority, the member, officer, or employee shall disclose the interest to the Commission, which shall set forth the disclosure in the minutes of the Commission. The member, officer, or employee having an interest may not participate on behalf of the Authority in the authorization of any contract.

**"§ 143B-437.47. Powers, duties, and goals of the Authority.**

(a) Powers. – The Authority shall have the following powers:

- (1) To employ, contract with, direct, and supervise all personnel and consultants.
- (2) To apply for, accept, and utilize grants, contributions, and appropriations in order to carry out its duties and goals as defined in this Part.
- (3) To enter into contracts and to provide support and assistance to local governments, nonprofit entities, for-profit entities, regional partnerships, and business and technology centers in carrying out its duties and goals under this Part.
- (4) To review and recommend changes in all laws, rules, programs, and policies of this State or any agency or subdivision thereof to further the goals of rural and distressed urban area Internet access.

(b) Duties. – The Authority shall have the following duties:

- (1) To monitor and safeguard the investments made and contracts negotiated by the Rural Internet Access Authority in carrying out its functions under S.L. 2000-149 until such time as all contracts negotiated by the RIAA are complete.
- (2) To maintain a web site with accurate, current, and complete information about the availability of present telecommunications and Internet services with periodic updates on the deployment of new telecommunications and broadband Internet services, as well as information on public access sites and digital literacy training programs in North Carolina.
- (3) To continue efforts to ensure that high-speed broadband Internet access remains available to every citizen of North Carolina at affordable prices in rural counties and urban distressed areas.
- (4) To attract and coordinate funding of federal, foundation, and corporate dollars for regional and Statewide technology initiatives and to assist local government, including e-communities (the 85 rural counties and the Eastern Band of the Cherokee who have completed the e-communities process), in obtaining grants to further enhance their technology infrastructure.
- (5) To propose funding from other appropriate sources for incentives without technology bias for the private sector to make necessary investments to achieve the Authority's goals and objectives.



- (6) To provide leadership, coordination, and support for grassroots efforts targeting technology-based economic development.
- (7) To provide leadership, coordination, and support for telecommunications policy assessment as it relates to providing high-speed Internet access in rural counties and urban distressed areas.
- (8) To promote collaborative technology projects, programs, and activities that reflect comprehensive efforts to develop technology-based economic development initiatives that utilize high-speed broadband Internet as a platform.
- (9) To encourage replicable and scalable Internet applications in government, health care, education, and business that will assist the communities of North Carolina to remain competitive with respect to knowledge of, and use of, as well as affordable access to the high-speed Internet.
- (10) To promote the use of constitutionally valid protective actions to limit the electronic distribution of material that is considered obscene, as defined by G.S. 14-190.1(b), to children via the Internet.

(d) Limitations. – The Authority shall not have the power of eminent domain or the power to levy any tax, or to impose any charge, surcharge, or fees on telephone or telecommunications services..

(e) Reports. – The Authority shall submit quarterly reports to the Governor, the Joint Select Committee on Information Technology, and the Joint Legislative Commission on Governmental Operations. The reports shall summarize the Authority's activities during the quarter and contain any information about the Authority's activities that is requested by the Governor, the Committee, or the Commission."

**SECTION 2.** G.S. 120-123 is amended by adding a new subdivision to read:

"(77) The e-NC Authority created in Part 2F of Article 10 of Chapter 143B of the General Statutes."

**SECTION 3.** Section 5 of S.L. 2000-149 reads as rewritten:

**"SECTION 5.** This act is effective when it becomes law. The North Carolina Rural Internet Access Authority created in this act is dissolved effective December 31, 2003. This act is repealed effective December 31, 2003. Part 2E of Article 10 of Chapter 143B of the General Statutes and G.S. 120-123(71), as enacted by this act, are repealed effective ~~December 1, 2003~~ December 31, 2003."

**SECTION 4.** Sections 1 and 2 of this act become effective December 31, 2003, with the e-NC Authority hereby designated as the successor entity of the Rural Internet Access Authority that will dissolve on that date, as provided by Section 5 of S.L. 2000-149. The remainder of this act is effective when it becomes law. The e-NC Authority created in this act is dissolved effective December 31, 2006. This act is repealed effective December 31, 2006. Part 2F of Article 10 of Chapter 143B of the General Statutes and G.S. 120-123(77), as enacted by this act, are repealed effective December 31, 2006.

In the General Assembly read three times and ratified this the 19<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 2:50 p.m. on the 14<sup>th</sup> day of August, 2003.

**H.B. 47****Session Law 2003-426**

## AN ACT ADOPTING THE CAROLINA LILY AS THE OFFICIAL WILDFLOWER OF NORTH CAROLINA.

Whereas, North Carolina is blessed with an abundance of wildflowers from the mountains to the coast; and

Whereas, the Carolina Lily is a scarce and beautiful flower that is found throughout North Carolina in upland pine-oak woods and pocosins; and

Whereas, the Carolina Lily (*Lilium michauxii*) is one of many plants named for the distinguished French botanist Andre Michaux who traveled widely in the southeastern United States; and

Whereas, Andre Michaux (1747-1802), a genuine hero of science and exploration, referred to the North Carolina mountains as "the great botanical laboratory and paradise of North America"; and

Whereas, the Carolina Lily, sometimes referred to as Michaux's Lily, bears up to six reddish-yellow, spotted flowers with petals that bend backwards; and

Whereas, each nodding flower grows to about three inches in diameter; and

Whereas, this magnificent flower bears the name of our great State; and

Whereas, the State of North Carolina does not have an official wildflower; Now, therefore,

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Chapter 145 of the General Statutes is amended by adding a new section to read:

**"§ 145-19. State wildflower.**

The Carolina Lily (*Lilium michauxii*) is adopted as the official wildflower of the State of North Carolina."

**SECTION 2.** The title of Chapter 145 of the General Statutes reads as rewritten:

"Chapter 145.

~~State Flower, Bird, Tree, Shell, Mammal, Fish, Insect, Stone, Reptile and Rock, Beverage, Historical Boat, Language, Dog, Military Academy, Tartan, Watermelon Festival, Symbols and Other Official Adoptions."~~

**SECTION 3.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 10<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 10:44 a.m. on the 19<sup>th</sup> day of August, 2003.

**H.B. 1028****Session Law 2003-427**

AN ACT TO AUTHORIZE THE COASTAL RESOURCES COMMISSION TO ADOPT TEMPORARY AND PERMANENT RULES TO ESTABLISH A GENERAL PERMIT FOR THE CONSTRUCTION OF RIPRAP SILLS FOR WETLAND ENHANCEMENT AND SHORELINE PROTECTION IN ESTUARINE AND PUBLIC TRUST WATERS, TO PROHIBIT THE CONSTRUCTION OF PERMANENT EROSION CONTROL STRUCTURES IN OCEAN SHORELINES, AND TO PROVIDE THAT TEMPORARY EROSION

CONTROL STRUCTURES IN OCEAN SHORELINES SHALL BE LIMITED TO SANDBAGS.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Pursuant to G.S. 113A-118.1, the Coastal Resources Commission may adopt temporary and permanent rules to establish a general permit to allow the construction of offshore parallel sills made of stone or other suitable riprap materials for shoreline protection in conjunction with existing, created, or restored wetlands. The permit shall be applicable only where a shoreline is experiencing erosion in public trust areas and estuarine waters. The permit shall not apply to oceanfront shorelines or to waters and shorelines adjacent to the ocean hazard areas of environmental concern except that the permit may apply to those shorelines that exhibit characteristics of estuarine shorelines. Characteristics of estuarine shorelines include the presence of wetland vegetation, lower wave energy, and lower erosion rates than are generally characteristic of ocean erodible areas. Notwithstanding G.S. 150B-21.1(a), the authorization to adopt temporary rules pursuant to this section shall continue in effect until 1 July 2004. Reference to this section shall satisfy the requirement for a statement of finding of need for a temporary rule set out in G.S. 150B-21.1.

**SECTION 2.** The fee for a general permit established by temporary rules pursuant to Section 1 of this act shall be one hundred dollars (\$100.00). In adopting permanent rules pursuant to Section 1 of this act, the Coastal Resources Commission shall set a fee for the general permit as provided in G.S. 113A-119.1.

**SECTION 3.** Part 3 of Article 7 of Chapter 113A of the General Statutes is amended by adding a new section to read:

**"§ 113A-115.1. Limitations on erosion control structures.**

(a) As used in this section:

- (1) 'Erosion control structure' means a breakwater, bulkhead, groin, jetty, revetment, seawall, or any similar structure.
- (2) 'Ocean shoreline' means the Atlantic Ocean, the oceanfront beaches, and frontal dunes. The term 'ocean shoreline' includes an ocean inlet and lands adjacent to an ocean inlet but does not include that portion of any inlet and lands adjacent to the inlet that exhibits characteristics of estuarine shorelines.

(b) No person shall construct a permanent erosion control structure in an ocean shoreline. The Commission shall not permit the construction of a temporary erosion control structure that consists of anything other than sandbags in an ocean shoreline. This section shall not apply to (i) any permanent erosion control structure that is approved pursuant to an exception set out in a rule adopted by the Commission prior to 1 July 2003 or (ii) any permanent erosion control structure that was originally constructed prior to 1 July 1974 and that has since been in continuous use to protect an inlet that is maintained for navigation. This section shall not be construed to limit the authority of the Commission to adopt rules to designate or protect areas of environmental concern, to govern the use of sandbags, or to govern the use of erosion coastal structures in estuarine shorelines.

(c) The Commission may renew a permit for an erosion control structure issued pursuant to a variance granted by the Commission prior to 1 July 1995. The Commission may authorize the replacement of a permanent erosion control structure that was permitted by the Commission pursuant to a variance granted by the Commission prior to 1 July 1995 if the Commission finds that: (i) the structure will not

be enlarged beyond the dimensions set out in the original permit; (ii) there is no practical alternative to replacing the structure that will provide the same or similar benefits; and (iii) the replacement structure will comply with all applicable laws and with all rules, other than the rule or rules with respect to which the Commission granted the variance, that are in effect at the time the structure is replaced."

**SECTION 4.** Sections 1 and 2 of this act become effective 1 July 2003. Sections 3 and 4 of this act become effective when this act becomes law.

In the General Assembly read three times and ratified this the 19<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 11:09 a.m. on the 19<sup>th</sup> day of August, 2003.

**S.B. 945****Session Law 2003-428**

AN ACT TO CLARIFY THE EXTENT TO WHICH A PROSPECTIVE APPLICANT FOR AN AIR QUALITY PERMIT FOR A NEW FACILITY MAY ENGAGE IN CONSTRUCTION PRIOR TO OBTAINING THE AIR QUALITY PERMIT AND TO SPECIFY THE CIRCUMSTANCES UNDER WHICH A PERSON WHO HOLDS AN AIR QUALITY PERMIT MAY ALTER OR EXPAND THE FACILITY UPON GIVING NOTICE TO THE ENVIRONMENTAL MANAGEMENT COMMISSION AND THE PUBLIC OF THE PERMITTEE'S INTENT TO APPLY FOR MODIFICATION OF THE PERMIT.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 143-215.108(a) reads as rewritten:

"(a) Except as provided in subsections (a1) and (a2) of this section, no person shall do any of the following things or carry out any of the following activities ~~which that~~ contravene or will be likely to contravene standards established pursuant to G.S. 143-215.107 or set out in G.S. 143-215.107D unless that person has obtained ~~from the Commission~~ a permit therefor from the Commission and has complied with any conditions of ~~this the~~ permit:

- (1) Establish or operate any air contaminant ~~source;source,~~ except as provided in G.S. 143-215.108A.
- (2) Build, erect, use or operate any equipment ~~which that~~ may result in the emission of an air contaminants-contaminant or which that is likely to cause air ~~pollution;pollution,~~ except as provided in G.S. 143-215.108A.
- (3) Alter or change the construction or method of operation of any equipment or process from which air contaminants are or may be ~~emitted;emitted.~~
- (4) ~~Enter into an irrevocable contract for the construction and installation of any air cleaning device, or allow or cause such device to be constructed, installed, or operated."~~

**SECTION 2.** G.S. 143-215.108(f) reads as rewritten:

"(f) An applicant for a permit under this section for a new facility or for the expansion of a facility permitted under this section shall request each local government having jurisdiction over any part of the land on which the facility and its appurtenances are to be located to issue a determination as to whether the local government has in effect a zoning or subdivision ordinance applicable to the facility and whether the

proposed facility or expansion would be consistent with the ordinance. The request to the local government shall be accompanied by a copy of the draft permit application and shall be delivered to the clerk of the local government personally or by certified mail. The determination shall be verified or supported by affidavit signed by the official designated by the local government to make the determination and, if the local government states that the facility is inconsistent with a zoning or subdivision ordinance, shall include a copy of the ordinance and the specific reasons for the determination of inconsistency. A copy of any such determination shall be provided to the applicant when it is submitted to the Commission. The Commission shall not act upon an application for a permit under this section until it has received a determination from each local government requested to make a determination by the applicant. If a local government determines that the new facility or the expansion of an existing facility is inconsistent with a zoning or subdivision ordinance, and unless ~~Unless~~ the local government makes a subsequent determination of consistency with all ordinances cited in the determination or the proposed facility is determined by a court of competent jurisdiction to be consistent with the cited ordinances, the Commission shall attach as a condition of the permit a requirement that the applicant, prior to construction or operation of the facility under the permit, comply with all lawfully adopted local ordinances, including those cited in the determination, that apply to the facility at the time of construction or operation of the facility. If a local government fails to submit a determination to the Commission as provided by this subsection within 15 days after receipt of the request, the Commission may proceed to consider the permit application without regard to local zoning and subdivision ordinances. This subsection shall not be construed to affect the validity of any lawfully adopted franchise, local zoning, subdivision, or land-use planning ordinance or to affect the responsibility of any person to comply with any lawfully adopted franchise, local zoning, subdivision, or land-use planning ordinance. This subsection shall not be construed to limit any opportunity a local government may have to comment on a permit application under any other law or rule. This subsection shall not apply to any facility with respect to which local ordinances are subject to review under either G.S. 104E-6.2 or G.S. 130A-293."

**SECTION 3.** Article 21B of Chapter 143 of the General Statutes is amended by adding a new section to read:

**"§ 143-215.108A. Control of sources of air pollution; construction of new facilities; alteration or expansion of existing facilities.**

(a) New Facilities. – A person may not, without obtaining a permit under G.S. 143-215.108, construct or operate an air contaminant source, equipment, or associated air cleaning device at a site or facility where, at the time of the construction, there is no other air contaminant source, equipment, or associated air cleaning device for which a permit is required under G.S. 143-215.108. A person may, however, undertake the following activities prior to obtaining a permit if the person complies with the requirements of this section:

- (1) Clearing and grading.
- (2) Construction of access roads, driveways, and parking lots.
- (3) Construction and installation of underground pipe work, including water, sewer, electric, and telecommunications utilities.
- (4) Construction of ancillary structures, including fences and office buildings, that are not a necessary component of an air contaminant source, equipment, or associated air cleaning device for which a permit is required under G.S. 143-215.108.

(b) Permitted Facilities. – A person who holds a permit under G.S. 143-215.108 may apply to the Commission for a modification of the permit to allow the person to alter or expand the physical arrangement or operation of an air contaminant source, equipment, or associated air cleaning device in a manner that alters the emission of air contaminants. The permittee may not operate the altered, expanded, or additional air contaminant source, equipment, or associated air cleaning device in a manner that alters the emission of any air contaminant without obtaining a permit modification under G.S. 143-215.108. A permittee may, however, alter or expand the physical arrangement or operation of an air contaminant source, equipment, or associated air cleaning device at a facility permitted under G.S. 143-215.108 if the permittee complies with the requirements of this section. At least 15 days prior to commencing alteration or expansion under this subsection, the permittee shall give notice by publication and shall submit to the Commission a notice of the permittee's intent to alter or expand the physical arrangement or operation of an air contaminant source, equipment, or associated air cleaning device. Notice by publication shall be in a newspaper having general circulation in the county or counties where the facility is to be located; shall be at the permittee's own expense; shall include a statement that written comment may be submitted to the Commission, that the Commission will consider any comment that it receives, and the Commission's address for submission of written comment; and shall include all the information required by subdivisions (1) through (6) of this subsection. The permittee shall submit a proof of publication of the notice to the Commission within 15 days of the date of publication. The notice of intent to the Commission shall include all of the following:

- (1) The name and location of the facility and the name and address of the permittee.
- (2) The permit number of each permit issued under G.S. 143-215.108 for the facility.
- (3) The nature of the air contaminant sources and equipment associated with the proposed modification of the permit.
- (4) An estimate of total regulated air contaminant emissions associated with the proposed modification of the permit.
- (5) The air cleaning devices that are to be employed to address each of the air contaminant sources associated with the modification of the permit.
- (6) The schedule for alteration or expansion of the facility associated with the proposed modification of the permit.
- (7) An acknowledgment by the permittee that the air contaminant sources, equipment, and associated air cleaning devices may not be operated in a manner that alters the emission of any air contaminant until the permittee has obtained a modified permit under G.S. 143-215.108.
- (8) An acknowledgment by the permittee that any alteration or expansion of the physical arrangement or operation of an air contaminant source, equipment, or associated air cleaning device prior to the modification of a permit under G.S. 143-215.108 is undertaken at the permittee's own risk and with the knowledge that the permittee may be denied a modification of the permit under G.S. 143-215.108 without regard to the permittee's financial investment or alteration or expansion of the facility.
- (9) A certification under oath that all of the information contained in the notice of intent is complete and accurate to the best of the permittee's

knowledge and ability, executed by the permittee or, if the permittee is a corporation, by the appropriate officers of the corporation.

(c) Review and Determination by the Commission. –

(1) Upon receipt of a complete notice of intent required under subsection (b) of this section, the Commission shall determine whether:

a. The permittee is and has been in substantial compliance with other permits issued the permittee.

b. The facility will be altered or expanded so that it will be used for either the same or a similar use as the use already permitted.

c. The alteration or expansion will not result in a disproportionate increase in the size of the facility already permitted.

d. The alteration or expansion will result in the same or substantially similar emissions as that of the facility already permitted.

e. The alteration or expansion will not have a significant effect on air quality.

f. The Commission is likely to issue the permit modification.

(2) Within 15 days after the Commission receives a complete notice of intent required under subsection (b) of this section, the Commission shall notify the permittee of its determination as to whether each of the conditions set out in subdivision (1) of this subsection has or has not been met. If the Commission finds that all of the conditions have been met, the notice shall state that the alteration or expansion of the physical arrangement or operation of an air contaminant source, equipment, or associated air cleaning device may begin. If the Commission finds that one or more of the conditions has not been met, the notice shall state that the alteration or expansion of the physical arrangement or operation of an air contaminant source, equipment, or associated air cleaning device may not begin.

(d) Order to Cease Construction, Alteration, or Expansion. – If at any time during the construction, alteration, or expansion of the physical arrangement or operation of an air contaminant source, equipment, or associated air cleaning device, the Commission determines that the permittee will not qualify for a permit or permit modification under G.S. 143-215.108, the Commission may order that the construction, alteration, or expansion cease until the Commission makes a decision on the application for a permit or permit modification. If the Commission orders that construction, alteration, or expansion cease, then construction, alteration, or expansion may resume only if the Commission either makes a subsequent determination that the circumstances that resulted in the order to cease construction, alteration, or expansion have been adequately addressed or if the Commission issues a permit or permit modification under G.S. 143-215.108 that authorizes construction, alteration, or expansion to resume.

(e) Evaluation of Permit Applications; Administrative and Judicial Review of Permit Decisions. – The Commission shall evaluate an application for a permit or permit modification under G.S. 143-215.108 and make its decision on the same basis as if the construction, alteration, or expansion allowed under this section had not occurred. The Commission shall consider any written comment that it receives in response to a notice by publication given pursuant to subsection (b) of this section. No evidence regarding any contract entered into, financial investment made, construction, alteration, or expansion undertaken, or economic loss incurred by any person or permittee who

proceeds under this section without first obtaining a permit under G.S. 143-215.108 is admissible in any contested case or judicial proceeding involving any permit required under G.S. 143-215.108. No evidence as to any determination or order by the Commission pursuant to subsection (c) or (d) of this section shall be admissible in any contested case or judicial proceeding related to any permit required under G.S. 143-215.108.

(f) State, Commission, and Employees Not Liable. – Every person, permittee, and owner of a facility who proceeds under this section shall hold the State, the Commission, and the officials, agents, and employees of the State and the Commission harmless and not liable for any loss resulting from any contract entered into, financial investment made, construction, alteration, or expansion undertaken, or economic loss incurred by any person, permittee, or owner of any facility pursuant to this section.

(g) Local Zoning Ordinances Not Affected. – This section shall not be construed to affect the validity of any lawfully adopted franchise, local zoning, subdivision, or land-use planning ordinance or to affect the responsibility of any person to comply with any lawfully adopted franchise, local zoning, subdivision, or land-use planning ordinance.

(h) Compliance With Other State Laws Not Affected. – This section does not relieve any person of the obligation to comply with any other requirement of State law, including any requirement to obtain any other permit or approval prior to undertaking any activity associated with preparation of the site or the alteration or expansion of the physical arrangement or operation of an air contaminant source, equipment, or associated air cleaning device at a facility for which a permit is required under G.S. 143-215.108.

(i) Federal Air Quality Programs Not Affected. – This section does not relieve any person from any preconstruction or construction prohibition imposed by any federal requirement, federal delegation, federally approved requirement in any State Implementation Plan, or federally approved requirement under the Title V permitting program, as determined solely by the Commission or by a local air pollution control program certified by the Commission as provided in G.S. 143-215.112. This section does not apply to any construction, alteration, or expansion that is subject to requirements for prevention of significant deterioration or federal nonattainment new source review, as determined solely by the Commission or by a local air pollution control program certified by the Commission as provided in G.S. 143-215.112. This section does not apply if it is inconsistent with any federal requirement, federal delegation, federally approved requirement in any State Implementation Plan, or federally approved requirement under the Title V permitting program, as determined solely by the Commission or by a local air pollution control program certified by the Commission as provided in G.S. 143-215.112.

(j) Fee. – A permittee who submits a notice of intent under subsection (b) of this section shall pay a fee of two hundred dollars (\$200.00) for each notice of intent submitted to cover a portion of the administrative costs of implementing this section."

**SECTION 4.** This act is effective when it becomes law and applies to the construction of any new facility and the alteration or expansion associated with the modification of a permit for an existing facility that commences on or after the date on which this act becomes law. This act does not apply to any application for a permit or permit modification under G.S. 143-215.108 that is submitted to the Environmental Management Commission prior to the date on which this act becomes law.



In the General Assembly read three times and ratified this the 17<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 1:25 p.m. on the 19<sup>th</sup> day of August, 2003.

**H.B. 150****Session Law 2003-429**

AN ACT TO PROVIDE CRITERIA FOR AWARDING STATE GRANTS TO STUDENTS ATTENDING CERTAIN ACCREDITED INSTITUTIONS OF HIGHER EDUCATION.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Part 5 of Article 1 of Chapter 116 of the General Statutes is amended by adding the following new section:

**"§ 116-43.5. State grants to aid eligible students attending certain private institutions of higher education; administrative procedure.**

(a) Definitions. – The following definitions apply in this section:

(1) "Institution" means a nonprofit educational institution with a main permanent campus located in this State that satisfies all of the following:

a. Is not owned or operated by the State of North Carolina or by an agency or political subdivision of the State or by any combination thereof.

b. Is accredited by the Southern Association of Colleges and Schools under the standards of the College Delegate Assembly of the Association.

c. Awards a postsecondary degree as defined in G.S. 116-15.

d. Its students are not eligible for a similar State grant under another State program.

(2) "Main permanent campus" means a campus that is owned by the institution that provides permanent on-premises housing, food services, and classrooms with full-time faculty members and administration that engage in postsecondary degree activity as defined in G.S. 116-15.

(3) "Student" means a person enrolled in and attending an institution located in the State (i) who qualifies as a resident of North Carolina in accordance with definitions of residency that may from time to time be adopted by the Board of Governors of The University of North Carolina and published in the residency manual of the Board, and (ii) who has not received a bachelors degree, or qualified therefor, and who is otherwise classified as an undergraduate under such regulations as the Board of Governors of The University of North Carolina may promulgate. Qualification for in-State tuition under G.S. 116-143.3 makes a person a "student" as defined in this subdivision.

(b) Eligibility. – A student is eligible for a State grant under this section for an academic year if the student is a full-time North Carolina undergraduate student attending an institution as defined by this section and is not eligible for a similar State grant under another State program for the same academic year.

(c) Administration. – The State grants provided for in this section shall be administered by the State Education Assistance Authority pursuant to rules adopted by the State Education Assistance Authority not inconsistent with this section. The State Education Assistance Authority shall pay the State grant to each student eligible under this section. The amount of the grant shall be determined by the General Assembly. The State grant shall be paid to a student only after the student completes the academic year. The grant shall be paid directly to the student on or after July 1 following the completion of the academic year. The State Education Assistance Authority shall not remit any grant until it receives proper certification from an institution that the student applying for the grant is an eligible student.

(d) Shortfall. – In the event there are not sufficient funds to provide each eligible student with a full grant: Each eligible student shall receive a pro rata share of funds then available for the appropriate academic year within the fiscal period covered by the current appropriation.

(e) Reversion. – Any remaining funds shall revert to the General Fund.

(f) A State grant authorized by this act shall be reduced by twenty-five percent (25%) for any individual student who has completed 140 semester credit hours or the equivalent of 140 semester credit hours.

(f1) The State Education Assistance Authority shall document the number of full-time equivalent North Carolina undergraduate students that are enrolled in private institutions and the State funds collected by students at each institution under this section. The State Education Assistance Authority shall report those findings to the Secretary of Administration, the House and Senate Appropriations Subcommittees on Education, and the Joint Legislative Education Oversight Committee.

(g) The State grant shall not be used for any student who:

- (1) Is incarcerated in a State or federal correctional facility for committing a Class A, B, B1, or B2 felony; or
- (2) Is incarcerated in a State or federal correctional facility for committing a Class C through I felony and is not eligible for parole or release within 10 years."

**SECTION 2.** This act becomes effective July 1, 2003, and applies to the 2003-2004 academic year and each year thereafter.

In the General Assembly read three times and ratified this the 18<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 1:31 p.m. on the 19<sup>th</sup> day of August, 2003.

## **S.B. 750**

## **Session Law 2003-430**

AN ACT TO INCREASE THE CEILING THAT A SMALL BREWERY MAY PRODUCE WITHOUT BEING REQUIRED TO GO THROUGH A MALT BEVERAGE DISTRIBUTOR.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 18B-1104 reads as rewritten:

"§ 18B-1104. **Authorization of brewery permit.**

The holder of a brewery permit may:

- (1) Manufacture malt beverages;

- (2) Purchase malt, hops and other ingredients used in the manufacture of malt beverages;
- (3) Sell, deliver and ship malt beverages in closed containers to wholesalers licensed under this Chapter as authorized by the ABC laws, except that malt beverages may be sold to exporters and nonresident wholesalers only when the purchase is not for resale in this State;
- (4) Receive malt beverages manufactured by the permittee in some other state for transshipment to dealers in other states;
- (5) Furnish or sell marketable malt beverage products, or packages which do not conform to the manufacturer's marketing standards, if State taxes have been or will be paid, to its employees for the use of the employees or their families and guests in this State;
- (6) Give its products to its employees and guests for consumption on its premises;
- (7) In areas where the sale is legal, sell the brewery's malt beverages at the brewery upon receiving a permit under G.S. 18B-1001(1). The brewery also may obtain a malt beverage wholesaler permit to sell, deliver, and ship at wholesale only malt beverages manufactured by the brewery. The authorization of this subdivision applies to a brewery that sells, to consumers at the brewery, to wholesalers, to retailers, and to exporters, fewer than ~~340,000 gallons~~25,000 barrels, as defined in G.S. 81A-9, of malt beverages produced by it per year.

A sale or gift under subdivision (5) or (6) shall not be considered a retail or wholesale sale under the ABC laws."

**SECTION 2.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 19<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 1:37 p.m. on the 19<sup>th</sup> day of August, 2003.

**S.B. 100**

**Session Law 2003-431**

AN ACT TO PROMOTE EFFICIENCY IN STATE GOVERNMENT BY ALLOWING A SALES AND USE TAX EXEMPTION FOR STATE AGENCIES INSTEAD OF A SALES AND USE TAX REFUND TO STATE AGENCIES AND TO ALLOW A SALES AND USE TAX REFUND TO SCHOOL BOARD COOPERATIVES.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** G.S. 105-164.13 is amended by adding a new subdivision to read:

"§ **105-164.13. Retail sales and use tax.**

The sale at retail, the use, storage or consumption in this State of the following tangible personal property is specifically exempted from the tax imposed by this Article:

- ...
- (52) Items subject to sales and use tax under G.S. 105-164.4, other than electricity and telecommunications service, if all of the following conditions are met:

- a. The items are purchased by a State agency for its own use and in accordance with G.S. 105-164.29A.
- b. The items are purchased pursuant to a valid purchase order issued by the State agency that contains the exemption number of the agency and a description of the property purchased, or the items purchased are paid for with a State-issued check, electronic deposit, credit card, procurement card, or credit account of the State agency.
- c. For all purchases other than by an agency-issued purchase order, the agency must provide to or have on file with the retailer the agency's exemption number."

**SECTION 2.** G.S. 105-164.14(c) reads as rewritten:

"(c) Certain Governmental Entities. – A governmental entity listed in this subsection is allowed an annual refund of sales and use taxes paid by it under this Article, ~~except under G.S. 105-164.4(a)(4a) and G.S. 105-164.4(a)(4c),~~ Article on direct purchases of tangible personal property, property and services, other than electricity and telecommunications service. Sales and use tax liability indirectly incurred by a governmental entity on building materials, supplies, fixtures, and equipment that become a part of or annexed to any building or structure that is owned or leased by the governmental entity and is being erected, altered, or repaired for use by the governmental entity is considered a sales or use tax liability incurred on direct purchases by the governmental entity for the purpose of this subsection. A request for a refund must be in writing and must include any information and documentation required by the Secretary. A request for a refund is due within six months after the end of the governmental entity's fiscal year.

This subsection applies only to the following governmental entities:

- (1) A county.
- (2) A city as defined in G.S. 160A-1.
- (2a) A consolidated city-county as defined in G.S. 160B-2.
- (2b) A local school administrative unit.
- (2c) A joint agency created by interlocal agreement among local school administrative units pursuant to G.S. 160A-462 to jointly purchase food service-related materials, supplies, and equipment on their behalf.
- (3) A metropolitan sewerage district or a metropolitan water district in this State.
- (4) A water and sewer authority created under Chapter 162A of the General Statutes.
- (5) A lake authority created by a board of county commissioners pursuant to an act of the General Assembly.
- (6) A sanitary district.
- (7) A regional solid waste management authority created pursuant to G.S. 153A-421.
- (8) An area mental health, developmental disabilities, and substance abuse authority, other than a single-county area authority, established pursuant to Article 4 of Chapter 122C of the General Statutes.
- (9) A district health department, or a public health authority created pursuant to Part 1A of Article 2 of Chapter 130A of the General Statutes.
- (10) A regional council of governments created pursuant to G.S. 160A-470.

- (11) A regional planning and economic development commission or a regional economic development commission created pursuant to Chapter 158 of the General Statutes.
- (12) A regional planning commission created pursuant to G.S. 153A-391.
- (13) A regional sports authority created pursuant to G.S. 160A-479.
- (14) A public transportation authority created pursuant to Article 25 of Chapter 160A of the General Statutes.
- (14a) A facility authority created pursuant to Part 4 of Article 20 of Chapter 160A of the General Statutes.
- (15) A regional public transportation authority created pursuant to Article 26 of Chapter 160A of the General Statutes, or a regional transportation authority created pursuant to Article 27 of Chapter 160A of the General Statutes.
- (16) A local airport authority that was created pursuant to a local act of the General Assembly.
- (17) A joint agency created by interlocal agreement pursuant to G.S. 160A-462 to operate a public broadcasting television station.
- (18) Repealed by Session Laws 2001-474, s. 7.
- (19) Repealed by Session Laws 2001-474, s. 7.
- (20) A constituent institution of The University of North Carolina, but only with respect to sales and use tax paid by it for tangible personal property acquired by it through the expenditure of contract and grant funds.
- (21) The University of North Carolina Hospitals at Chapel Hill.
- (22) A regional natural gas district created pursuant to Article 28 of Chapter 160A of the General Statutes."

**SECTION 3.** G.S. 105-164.14(e) reads as rewritten:

"(e) State Agencies. – The State is allowed quarterly refunds of local sales and use taxes paid by a State agency on direct purchases of tangible personal property and local sales and use taxes paid indirectly by the State agency on building materials, supplies, fixtures, and equipment that become a part of or annexed to a building or structure that is owned or leased by the State agency and is being erected, altered, or repaired for use by the State agency. ~~This subsection does not apply to purchases for which a State agency is allowed a refund under subsection (c) of this section.~~

A person who pays local sales and use taxes on building materials or other tangible personal property for a State building project shall give the State agency for whose project the property was purchased a signed statement containing all of the following information:

- (1) The date the property was purchased.
- (2) The type of property purchased.
- (3) The project for which the property was used.
- (4) If the property was purchased in this State, the county in which it was purchased.
- (5) If the property was not purchased in this State, the county in which the property was used.
- (6) The amount of sales and use taxes paid.

If the property was purchased in this State, the person shall attach a copy of the sales receipt to the statement. A State agency to whom a statement is submitted shall verify the accuracy of the statement.

Within 15 days after the end of each calendar quarter, every State agency shall file with the Secretary a written application for a refund of taxes to which this subsection applies paid by the agency during the quarter. The application shall contain all information required by the Secretary. The Secretary shall credit the local sales and use tax refunds directly to the General Fund."

**SECTION 4.** Part 5 of Article 5 of Chapter 105 of the General Statutes is amended by adding a new section to read:

**"§ 105-164.29A. State government exemption process.**

(a) Application. – To be eligible for the exemption provided in G.S. 105-164.13(51), a State agency must obtain from the Department a sales tax exemption number. The application for exemption must be in the form required by the Secretary, be signed by the State agency's head, and contain any information required by the Secretary. The Secretary must assign a sales tax exemption number to a State agency that submits a proper application.

(b) Liability. – A State agency that does not use the items purchased with its exemption number must pay the tax that should have been paid on the items purchased, plus interest calculated from the date the tax would otherwise have been paid."

**SECTION 5.** The Office of State Budget and Management must reduce each State agency's certified budget for fiscal years 2003-2004 and 2004-2005 by an appropriate amount to reflect the tax savings generated by the sales and use tax exemption for State agencies allowed under this act.

**SECTION 6.** Section 2 of this act is effective for taxes paid on or after July 1, 2003. Section 4 of this act becomes effective January 1, 2004. The remainder of this act becomes effective July 1, 2004, and applies to sales made on or after that date.

In the General Assembly read three times and ratified this the 18<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 1:39 p.m. on the 19<sup>th</sup> day of August, 2003.

**H.B. 754**

**Session Law 2003-432**

AN ACT TO PLACE A MORATORIUM UNTIL DECEMBER 31, 2004, ON THE ENACTMENT OF NEW OR EXPANDED ORDINANCES AMORTIZING OFF PREMISES OUTDOOR ADVERTISING BY LOCAL GOVERNMENTS, AND TO DIRECT THE REVENUE LAWS STUDY COMMITTEE TO STUDY THE ISSUE.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** On or before December 31, 2004, no local government shall enact any new ordinance amortizing off premises outdoor advertising or extend or expand any existing ordinance amortizing off premises outdoor advertising.

**SECTION 2.** The Revenue Laws Study Committee is directed to study local government ordinances amortizing off premises outdoor advertising, and report any findings, together with any recommended legislation, to the 2004 Regular Session of the 2003 General Assembly upon its convening.

**SECTION 3.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 20<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 6:30 p.m. on the 19<sup>th</sup> day of August, 2003.

**H.B. 566****Session Law 2003-433**

AN ACT TO APPROVE IN PART AND TO DEFER ACTION ON PART OF THE ADMINISTRATIVE RULE RECLASSIFICATION BY THE ENVIRONMENTAL MANAGEMENT COMMISSION OF PORTIONS OF SWIFT CREEK AND SANDY CREEK IN THE TAR-PAMLICO RIVER BASIN AND TO AUTHORIZE THE ENVIRONMENTAL REVIEW COMMISSION TO EVALUATE HOW BEST TO PROTECT WATER QUALITY AND ENDANGERED SPECIES IN THE EASTERN PORTION OF SWIFT CREEK AND ITS WATERSHED.

*The General Assembly of North Carolina enacts:*

**SECTION 1.** Pursuant to G.S. 150B-21.3(b), 15A NCAC 2B.0225 (Outstanding Resource Waters) and 15A NCAC 2B.0316 (Tar-Pamlico River Basin), as adopted by the Environmental Management Commission on 11 July 2002 and approved by the Rules Review Commission on 15 August 2002, are approved effective 1 August 2003 with respect to all waters and lands that are located west of Nash County State Road 1003 (Red Oak Road).

**SECTION 2.** With respect to all waters and lands that are located east of Nash County State Road 1003 (Red Oak Road), 15A NCAC 2B.0225 (Outstanding Resource Waters) and 15A NCAC 2B.0316 (Tar-Pamlico River Basin), as adopted by the Environmental Management Commission on 11 July 2002 and approved by the Rules Review Commission on 15 August 2002, shall not become effective as provided in G.S. 150B-21.3(b) and shall become effective only as the 2004 Regular Session of the 2003 General Assembly may provide by law.

**SECTION 3.** The Environmental Review Commission may identify and evaluate options to protect water quality and endangered species in the portion of Swift Creek and its watershed in the Tar-Pamlico River Basin that are located east of Nash County State Road 1003 (Red Oak Road). The Environmental Review Commission may report its findings, together with any recommended legislation, to the 2004 Regular Session of the 2003 General Assembly.

**SECTION 4.** The Environmental Management Commission shall adopt temporary and permanent rules to amend the North Carolina Administrative Code to incorporate the provisions of Section 1 of this act. Notwithstanding G.S. 150B-21.1, this act shall not be construed to authorize the Environmental Management Commission to adopt a temporary rule related to the subject matter of this act except as specifically provided by this section, and the Environmental Management Commission shall not be required to provide prior notice or a hearing to adopt the temporary rule required by this section. Reference to this section shall satisfy the requirement for a statement of finding of need for a temporary rule set out in G.S. 150B-21.1.

**SECTION 5.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 19<sup>th</sup> day of July, 2003.

Became law upon approval of the Governor at 6:36 p.m. on the 19<sup>th</sup> day of August, 2003.







Block 1038, Block 1996, Block 1997, Block 1998, Block 1999; Precinct Glenburnie Park: Tract 9605: Block Group 3: Block 3000, Block 3001, Block 3997, Block 3999; Block Group 4: Block 4000, Block 4001, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 4007, Block 4008, Block 4015, Block 4016, Block 4017, Block 4018, Block 4019, Block 4020, Block 4021, Block 4022, Block 4023, Block 4024, Block 4025, Block 4026, Block 4027, Block 4028, Block 4029, Block 4030, Block 4031, Block 4033, Block 4034, Block 4998, Block 4999; Tract 9606: Block Group 3: Block 3000; Tract 9608: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1998, Block 1999; Block Group 2: Block 2000, Block 2001; Precinct Grantham: Tract 9610: Block Group 1: Block 1032, Block 1033, Block 1034, Block 1999; Block Group 2: Block 2000, Block 2001, Block 2003, Block 2023, Block 2028, Block 2029, Block 2030, Block 2999; Block Group 3, Block Group 4, Block Group 5: Block 5000, Block 5001, Block 5002, Block 5003, Block 5004, Block 5008, Block 5009, Block 5010, Block 5011, Block 5012, Block 5013, Block 5014, Block 5015, Block 5018, Block 5019, Block 5020, Block 5021, Block 5022, Block 5023, Block 5024, Block 5025, Block 5026, Block 5027, Block 5028, Block 5029, Block 5030, Block 5031, Block 5032, Block 5033, Block 5034, Block 5035, Block 5036, Block 5037, Block 5038, Block 5039, Block 5040, Block 5041, Block 5042, Block 5043, Block 5044, Block 5045, Block 5046, Block 5047, Block 5048, Block 5049, Block 5050, Block 5051; Block Group 7: Block 7000, Block 7001, Block 7002, Block 7003, Block 7004, Block 7005, Block 7006, Block 7009, Block 7010, Block 7011; Tract 9611: Block Group 1: Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1998; Precinct Grover C. Fields: Tract 9605: Block Group 4: Block 4009, Block 4010, Block 4011, Block 4012, Block 4013, Block 4014, Block 4032; Tract 9606: Block Group 2: Block 2000, Block 2005, Block 2006; Block Group 3: Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3015, Block 3016, Block 3017, Block 3018, Block 3026, Block 3039, Block 3040, Block 3041; Block Group 4: Block 4027, Block 4029, Block 4030, Block 4031, Block 4032, Block 4033, Block 4035, Block 4036, Block 4037; Tract 9607: Block Group 1: Block 1006, Block 1007, Block 1009, Block 1010, Block 1011, Block 1012, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023; Block Group 2: Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2023, Block 2024; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020; Precinct H.J. Macdonald: Tract 9606: Block Group 1: Block 1008, Block 1009, Block 1010; Precinct Havelock East: Tract 9613: Block Group 2: Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2031, Block 2032; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016; Block Group 4: Block 4010, Block 4011, Block 4012, Block 4013, Block 4014, Block 4015, Block 4016, Block 4017, Block 4018, Block 4019, Block 4027; Block Group 5: Block 5033, Block 5034, Block 5035, Block 5036, Block 5037, Block 5038,

Block 5039, Block 5040, Block 5053, Block 5054, Block 5056, Block 5057; Precinct Havelock West: Tract 9611: Block Group 1: Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1996; Block Group 2: Block 2029, Block 2034, Block 2035, Block 2036, Block 2037, Block 2038, Block 2039, Block 2040, Block 2041, Block 2042, Block 2043, Block 2044, Block 2045, Block 2046, Block 2047, Block 2048, Block 2049, Block 2050, Block 2051, Block 2052, Block 2053, Block 2054, Block 2055, Block 2056, Block 2057, Block 2058, Block 2059, Block 2060, Block 2061, Block 2062, Block 2063, Block 2064, Block 2065; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3024, Block 3025, Block 3026, Block 3027, Block 3028, Block 3998; Tract 9612: Block Group 1: Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1996, Block 1997; Tract 9613: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1022, Block 1026, Block 1027, Block 1028, Block 1999; Precinct Jasper: Tract 9603: Block Group 1: Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1996; Precinct New Bern West: Tract 9604: Block Group 2: Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2035, Block 2036; Block Group 3: Block 3000, Block 3001, Block 3002; Block Group 4: Block 4000, Block 4001, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 4007, Block 4008; Block Group 5: Block 5000, Block 5001, Block 5017, Block 5018, Block 5019, Block 5023, Block 5024, Block 5025, Block 5026, Block 5027, Block 5028, Block 5029, Block 5030, Block 5031, Block 5040, Block 5041, Block 5042, Block 5043, Block 5044, Block 5045, Block 5046, Block 5047, Block 5048, Block 5049, Block 5050; Block Group 6: Block 6000, Block 6001, Block 6002, Block 6003, Block 6004, Block 6005, Block 6012, Block 6013, Block 6016, Block 6017, Block 6018, Block 6019, Block 6020, Block 6995, Block 6999; Tract 9606: Block Group 1: Block 1007; Block Group 2: Block 2001, Block 2004, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014; Tract 9607: Block Group 3: Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014; Precinct Rhems: Tract 9604: Block Group 5: Block 5070; Block Group 7: Block 7000, Block 7001; Precinct River Bend: Tract 9604: Block Group 5: Block 5073, Block 5074; Block Group 7: Block 7004, Block 7005, Block 7006, Block 7007, Block 7008, Block 7009, Block 7010, Block 7011, Block 7012, Block 7013, Block 7014, Block 7015, Block 7016, Block 7019, Block 7020, Block 7021, Block 7022, Block 7023, Block 7024, Block 7025, Block 7026, Block 7027, Block 7028, Block 7029, Block 7030, Block 7031, Block 7032, Block 7033, Block 7034, Block 7035, Block 7036, Block 7037, Block 7038, Block 7039, Block 7040, Block 7041, Block 7042, Block 7043, Block 7044, Block 7045, Block 7046, Block 7047, Block 7994, Block 7995, Block 7996, Block 7997; Precinct Trent Woods: Tract 9604: Block Group 1: Block 1044, Block 1045, Block 1046, Block 1047, Block 1048, Block 1055, Block 1056, Block 1057, Block 1058, Block 1059, Block 1060, Block 1061, Block 1996, Block 1997; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block

2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2037, Block 2038, Block 2039, Block 2040, Block 2041; Block Group 3: Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3998, Block 3999; Block Group 6: Block 6006, Block 6007, Block 6008, Block 6009, Block 6010, Block 6011, Block 6024, Block 6025, Block 6026, Block 6027, Block 6028, Block 6029, Block 6030, Block 6031, Block 6032, Block 6033, Block 6034, Block 6035, Block 6037, Block 6038, Block 6039, Block 6040, Block 6041, Block 6042, Block 6996, Block 6998; Precinct Truitt, Precinct Vanceboro; Pamlico County.

District 4: Duplin County, Onslow County: Precinct Catherine Lake, Precinct Gum Branch, Precinct Richlands, Precinct Tar Landing.

District 5: Bertie County, Gates County, Hertford County, Perquimans County.

District 6: Beaufort County, Pitt County: Precinct Greenville 08A, Precinct Greenville 08B, Precinct Greenville 09: Tract 3: Block Group 1, Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2015, Block 2016; Block Group 4: Block 4000, Block 4001, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 4007, Block 4008, Block 4009, Block 4053, Block 4054, Block 4055, Block 4056, Block 4057, Block 4999; Tract 9: Block Group 2: Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2036, Block 2037, Block 2055, Block 2056, Block 2057, Block 2059, Block 2993, Block 2994, Block 2995, Block 2996; Tract 10: Block Group 4: Block 4013, Block 4014, Block 4015, Block 4016, Block 4017, Block 4018, Block 4019, Block 4020, Block 4021, Block 4022, Block 4023, Block 4997; Precinct Greenville 10B, Precinct Grimesland, Precinct Pactolus, Precinct Simpson A, Precinct Simpson B.

District 7: Halifax County: Precinct Butterwood: Tract 9906: Block Group 2: Block 2018, Block 2019, Block 2021, Block 2056, Block 2057, Block 2058, Block 2059, Block 2060; Tract 9907: Block Group 4: Block 4030, Block 4031; Tract 9908: Block Group 1: Block 1000, Block 1029; Precinct Conoconnara, Precinct Enfield 1, Precinct Enfield 2, Precinct Enfield 3, Precinct Faucett, Precinct Halifax, Precinct Hobgood, Precinct Hollister: Tract 9906: Block Group 3: Block 3011, Block 3012, Block 3013, Block 3019, Block 3020, Block 3021; Tract 9908: Block Group 1: Block 1026, Block 1027, Block 1028, Block 1036, Block 1037, Block 1038, Block 1039; Block Group 2: Block 2011; Block Group 3: Block 3000; Block Group 4: Block 4000, Block 4013, Block 4014, Block 4015, Block 4016, Block 4017, Block 4020; Precinct Littleton 1: Tract 9906: Block Group 2: Block 2020; Tract 9907: Block Group 2: Block 2013; Block Group 4: Block 4000, Block 4001, Block 4003, Block 4004, Block 4022, Block 4023, Block 4024, Block 4025, Block 4026, Block 4029; Precinct Palmyra, Precinct Ringwood, Precinct Roanoke Rapids 07, Precinct Roanoke Rapids 08, Precinct Roanoke Rapids 09, Precinct Roanoke Rapids 10, Precinct Roanoke Rapids 11: Tract 9905: Block Group 1: Block 1040, Block 1041, Block 1042, Block 1043, Block 1045, Block 1046; Block Group 2: Block 2004, Block 2005, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014; Precinct Roseneath, Precinct Scotland Neck 1, Precinct Scotland Neck 2, Precinct Weldon 1, Precinct Weldon 2, Precinct Weldon 3; Nash County: Precinct Rocky Mount 01, Precinct Rocky Mount 02, Precinct Rocky Mount 03, Precinct Rocky

Mount 04: Tract 102: Block Group 2: Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032; Block Group 3: Block 3001, Block 3002, Block 3004, Block 3005, Block 3006, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013; Tract 103: Block Group 4: Block 4000, Block 4001, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 4007, Block 4008, Block 4009, Block 4010, Block 4011, Block 4014, Block 4015, Block 4016, Block 4017, Block 4018; Precinct Rocky Mount 10, Precinct Whitakers North 1, Precinct Whitakers South.

District 8: Martin County, Pitt County: Precinct Arthur: Tract 17: Block Group 1: Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1068, Block 1069, Block 1075, Block 1076, Block 1077; Tract 18: Block Group 4: Block 4001, Block 4002, Block 4003, Block 4004; Precinct Belvoir, Precinct Bethel, Precinct Carolina, Precinct Falkland, Precinct Farmville A, Precinct Farmville B, Precinct Fountain, Precinct Greenville 01, Precinct Greenville 03, Precinct Greenville 04: Tract 6: Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3011, Block 3012, Block 3013, Block 3014, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3024, Block 3025, Block 3999; Block Group 4: Block 4005, Block 4011, Block 4016, Block 4017, Block 4018, Block 4019, Block 4020, Block 4021, Block 4022, Block 4023, Block 4024, Block 4025, Block 4026, Block 4027, Block 4028, Block 4029, Block 4030, Block 4031, Block 4032, Block 4033, Block 4034, Block 4035, Block 4036, Block 4037, Block 4038, Block 4039, Block 4040, Block 4041, Block 4042, Block 4043, Block 4044, Block 4045, Block 4053, Block 4054, Block 4055, Block 4056, Block 4057, Block 4058, Block 4059, Block 4060, Block 4061, Block 4062, Block 4063, Block 4064, Block 4067; Tract 7.01: Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3024, Block 3025, Block 3026, Block 3027, Block 3028, Block 3029, Block 3030, Block 3039, Block 3040, Block 3041, Block 3042, Block 3043, Block 3044; Tract 7.02: Block Group 1, Block Group 2; Precinct Greenville 05A, Precinct Greenville 05B: Tract 7.01: Block Group 1, Block Group 2: Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033; Block Group 3: Block 3013, Block 3014, Block 3015, Block 3031, Block 3032, Block 3033, Block 3034, Block 3035, Block 3036, Block 3037, Block 3038, Block 3045, Block 3046; Precinct Greenville 06: Tract 1: Block Group 3: Block 3038, Block 3039, Block 3040, Block 3041, Block 3042, Block 3054, Block 3055, Block 3056, Block 3057, Block 3058, Block 3059, Block 3060, Block 3062, Block 3063, Block 3064, Block 3065; Block Group 4: Block 4000, Block 4001, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 4007, Block 4008, Block 4009, Block 4010, Block 4011, Block 4012, Block 4013, Block 4014, Block 4015, Block 4016, Block 4017, Block 4018, Block 4019, Block 4020, Block 4021,

Block 4022, Block 4023, Block 4024, Block 4025, Block 4026, Block 4027, Block 4028, Block 4029, Block 4030; Block Group 5: Block 5011, Block 5012, Block 5013, Block 5014, Block 5015, Block 5018, Block 5019, Block 5020, Block 5021, Block 5023; Precinct Greenville 12A: Tract 6: Block Group 2: Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016.

District 9: Pitt County: Precinct Arthur: Tract 6: Block Group 2: Block 2018, Block 2021; Tract 16: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1020; Block Group 2: Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2040, Block 2041, Block 2042, Block 2043, Block 2044, Block 2049, Block 2050, Block 2054; Block Group 3: Block 3005, Block 3006; Tract 17: Block Group 1: Block 1049, Block 1050, Block 1051, Block 1052, Block 1053, Block 1054, Block 1055, Block 1056, Block 1057, Block 1058, Block 1059, Block 1060, Block 1061, Block 1062, Block 1066, Block 1067, Block 1070, Block 1071, Block 1072, Block 1073, Block 1074; Tract 18: Block Group 4: Block 4000; Precinct Ayden A, Precinct Ayden B, Precinct Chicod, Precinct Greenville 04: Tract 6: Block Group 3: Block 3015, Block 3032, Block 3036, Block 3037, Block 3038; Block Group 4: Block 4006, Block 4007, Block 4008, Block 4009, Block 4010, Block 4046, Block 4047, Block 4048, Block 4049, Block 4050, Block 4051, Block 4052, Block 4065, Block 4066; Tract 16: Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013; Tract 17: Block Group 1: Block 1043, Block 1044, Block 1045, Block 1046; Precinct Greenville 05B: Tract 5: Block Group 1: Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038, Block 1039, Block 1040, Block 1041, Block 1042; Precinct Greenville 06: Tract 1: Block Group 3: Block 3034, Block 3035, Block 3036, Block 3037, Block 3043, Block 3044, Block 3045, Block 3046, Block 3047, Block 3048, Block 3050, Block 3051, Block 3052, Block 3053, Block 3061, Block 3066, Block 3067; Block Group 4: Block 4031; Block Group 5: Block 5006, Block 5007, Block 5008, Block 5009, Block 5010, Block 5016, Block 5017, Block 5022; Tract 4: Block Group 4: Block 4006, Block 4007, Block 4008, Block 4009, Block 4010, Block 4011, Block 4012, Block 4013, Block 4014, Block 4015, Block 4016; Tract 5: Block Group 1: Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1017, Block 1018; Precinct Greenville 07A, Precinct Greenville 07B, Precinct Greenville 07C, Precinct Greenville 09: Tract 1: Block Group 5: Block 5024, Block 5025; Tract 2: Block Group 5: Block 5022, Block 5023, Block 5024, Block 5025; Tract 3: Block Group 2: Block 2014, Block 2017, Block 2018, Block 2019, Block 2037; Tract 4: Block Group 3: Block 3005, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3024, Block 3025, Block 3026, Block 3027, Block 3028, Block 3029; Block Group 4: Block 4004, Block 4005; Precinct Greenville 10A, Precinct

Greenville 11A, Precinct Greenville 11B, Precinct Greenville 12A: Tract 6: Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2017, Block 2019, Block 2020, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2035, Block 2036, Block 2037, Block 2038, Block 2039, Block 2040, Block 2041, Block 2042, Block 2043, Block 2044; Tract 16: Block Group 2: Block 2035, Block 2036; Precinct Greenville 12B, Precinct Grifton, Precinct Swift Creek, Precinct Winterville Central A, Precinct Winterville Central B, Precinct Winterville East.

District 10: Greene County, Lenoir County: Precinct Contentnea, Precinct Falling Creek: Tract 107: Block Group 3: Block 3021, Block 3022, Block 3023, Block 3024, Block 3998; Tract 110: Block Group 1: Block 1029, Block 1030; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2018, Block 2019, Block 2020; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3005, Block 3999; Block Group 4: Block 4005, Block 4006, Block 4007, Block 4008, Block 4009, Block 4010, Block 4011, Block 4012, Block 4013, Block 4014, Block 4015, Block 4016, Block 4017, Block 4018, Block 4019, Block 4020, Block 4021, Block 4022, Block 4999; Block Group 5: Block 5002, Block 5003, Block 5004, Block 5005, Block 5006, Block 5007, Block 5008, Block 5009, Block 5010, Block 5011, Block 5012, Block 5013, Block 5014, Block 5015, Block 5016, Block 5017, Block 5018, Block 5019, Block 5020, Block 5021, Block 5022, Block 5023, Block 5024, Block 5025, Block 5026, Block 5027, Block 5028, Block 5029, Block 5030, Block 5031, Block 5032, Block 5033, Block 5034, Block 5035, Block 5036, Block 5037, Block 5038, Block 5039, Block 5040, Block 5041; Block Group 6: Block 6000, Block 6001, Block 6002, Block 6003, Block 6004, Block 6005, Block 6006, Block 6007, Block 6008, Block 6009, Block 6010, Block 6017, Block 6018, Block 6019, Block 6020, Block 6021, Block 6026, Block 6027, Block 6028, Block 6029, Block 6030, Block 6031, Block 6032, Block 6033, Block 6034, Block 6035, Block 6036, Block 6037, Block 6038, Block 6039, Block 6040, Block 6041, Block 6042, Block 6043, Block 6044, Block 6045, Block 6046, Block 6047, Block 6995, Block 6996, Block 6997, Block 6998, Block 6999; Tract 113: Block Group 4: Block 4018, Block 4028, Block 4990, Block 4995; Precinct Institute, Precinct Kinston 3: Tract 107: Block Group 3: Block 3000, Block 3001, Block 3002, Block 3018, Block 3019, Block 3020; Precinct Kinston 4: Tract 106: Block Group 1; Tract 108: Block Group 1: Block 1015, Block 1016, Block 1017, Block 1020, Block 1021, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030; Block Group 2: Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027; Block Group 3: Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3024, Block 3025, Block 3026, Block 3027, Block 3028, Block 3029, Block 3030; Precinct Kinston 5: Tract 106: Block Group 2: Block 2001, Block 2005, Block 2019, Block 2020; Precinct Kinston 6: Tract 101: Block Group 4: Block 4004, Block 4005, Block 4006, Block 4010, Block 4012; Precinct Moseley Hall, Precinct Neuse: Tract 112: Block Group 3: Block 3009; Tract 113: Block Group 1: Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1017, Block 1018, Block 1021, Block 1022, Block 1023; Block Group 2: Block 2000; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006,

Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3020, Block 3021, Block 3022, Block 3023; Block Group 4: Block 4015, Block 4016, Block 4017, Block 4019, Block 4020, Block 4021, Block 4022, Block 4023, Block 4024, Block 4025, Block 4026, Block 4027, Block 4029, Block 4030, Block 4031, Block 4989, Block 4991, Block 4992, Block 4993, Block 4994, Block 4996; Block Group 5: Block 5001, Block 5002, Block 5003, Block 5004, Block 5005, Block 5006, Block 5007, Block 5008, Block 5009, Block 5010, Block 5011, Block 5012, Block 5013, Block 5014, Block 5015, Block 5016, Block 5017, Block 5019, Block 5020, Block 5021, Block 5022, Block 5023, Block 5024, Block 5025, Block 5026, Block 5027, Block 5028; Tract 114: Block Group 2: Block 2006, Block 2007; Precinct Pink Hill 1, Precinct Pink Hill 2, Precinct Sandhill: Tract 114: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1999; Precinct Southwest: Tract 114: Block Group 2: Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2035, Block 2036, Block 2037, Block 2038, Block 2039, Block 2040, Block 2041, Block 2042, Block 2043, Block 2044, Block 2045, Block 2994, Block 2995, Block 2996; Block Group 3, Block Group 4: Block 4000, Block 4001, Block 4008, Block 4009, Block 4010, Block 4011, Block 4012, Block 4013, Block 4014, Block 4015; Precinct Trent 1, Precinct Trent 2, Precinct Vance: Tract 109: Block Group 1: Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1016, Block 1017; Block Group 2: Block 2000, Block 2001, Block 2002; Block Group 3; Precinct Woodington; Wayne County: Precinct 14: Tract 4: Block Group 1: Block 1039, Block 1080; Block Group 3: Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3024, Block 3025, Block 3026, Block 3027, Block 3028, Block 3029, Block 3030, Block 3031, Block 3032, Block 3033, Block 3034, Block 3035, Block 3036, Block 3037, Block 3038, Block 3039, Block 3047, Block 3048, Block 3997, Block 3998, Block 3999; Block Group 4: Block 4004; Precinct 15: Tract 3.02: Block Group 2: Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2998; Tract 4: Block Group 1: Block 1050, Block 1051, Block 1055, Block 1056, Block 1057, Block 1058, Block 1059, Block 1060, Block 1061, Block 1062, Block 1063, Block 1064, Block 1065, Block 1066, Block 1074, Block 1075, Block 1076, Block 1077, Block 1078, Block 1079; Block Group 3: Block 3000, Block 3001, Block 3040, Block 3041, Block 3042, Block 3043, Block 3044, Block 3045, Block 3046, Block 3049, Block 3050, Block 3052, Block 3053, Block 3054, Block 3055, Block 3056, Block 3057, Block 3058, Block 3059, Block 3060, Block 3992, Block 3993, Block 3994, Block 3996; Block Group 4: Block 4000, Block 4001, Block 4002, Block 4005, Block 4006; Tract 6.02: Block Group 3: Block 3016, Block 3018, Block 3019, Block 3020, Block 3025, Block 3026, Block 3027, Block 3028, Block 3029, Block 3030, Block 3031, Block 3032, Block 3033, Block 3034, Block 3035, Block 3036, Block 3040, Block 3048, Block 3049, Block 3050, Block 3051, Block 3052, Block 3053, Block 3054, Block 3055, Block 3056, Block 3057; Block Group 4; Precinct 26: Tract 6.01: Block Group 3: Block 3005, Block 3006, Block 3007, Block



3010, Block 3011, Block 3012; Tract 6.02: Block Group 1: Block 1000, Block 1001, Block 1002; Precinct 28: Tract 4: Block Group 1: Block 1069, Block 1070, Block 1071, Block 1072, Block 1073; Block Group 2: Block 2005, Block 2006, Block 2007, Block 2999; Block Group 3: Block 3051, Block 3995; Tract 6.01: Block Group 1: Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029; Tract 6.02: Block Group 1: Block 1010, Block 1011, Block 1012, Block 1013, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038, Block 1999; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2028, Block 2029, Block 2030, Block 2031, Block 2998, Block 2999; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3017, Block 3021, Block 3022, Block 3023, Block 3024, Block 3037, Block 3038, Block 3039, Block 3041, Block 3042, Block 3043, Block 3044, Block 3045, Block 3046, Block 3047, Block 3997, Block 3998, Block 3999; Tract 7: Block Group 3: Block 3000, Block 3001, Block 3003, Block 3004, Block 3005, Block 3006, Block 3020, Block 3021.

District 11: Wayne County: Precinct 01, Precinct 02, Precinct 03, Precinct 04, Precinct 05, Precinct 06, Precinct 07, Precinct 08, Precinct 09, Precinct 10: Tract 12: Block Group 1: Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1030, Block 1031, Block 1032; Block Group 2: Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013; Precinct 11: Tract 12: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1019, Block 1020, Block 1033, Block 1034, Block 1035, Block 1052, Block 1053, Block 1054, Block 1055, Block 1056, Block 1057, Block 1058, Block 1066, Block 1067, Block 1068, Block 1069, Block 1070; Tract 19: Block Group 1: Block 1007, Block 1008, Block 1009, Block 1010, Block 1012, Block 1013, Block 1014, Block 1015, Block 1019, Block 1020, Block 1021, Block 1047, Block 1049, Block 1050; Block Group 2: Block 2001; Precinct 12, Precinct 13, Precinct 14: Tract 3.02: Block Group 2: Block 2031, Block 2032, Block 2033, Block 2034; Tract 4: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1040, Block 1041, Block 1042, Block 1043, Block 1044, Block 1091, Block 1092; Block Group 3: Block 3008, Block 3009; Block Group 4: Block 4003, Block 4007; Precinct 15: Tract 3.02: Block Group 2: Block 2012, Block 2013; Precinct 16, Precinct 21: Tract 5: Block Group 1: Block 1001; Tract 13: Block Group 3: Block 3040; Tract 14: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038, Block 1039, Block 1040, Block 1048, Block 1049, Block 1050; Block Group 3:

Block 3000, Block 3001, Block 3002, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3011, Block 3013; Tract 19: Block Group 2: Block 2002, Block 2003, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017; Block Group 3: Block 3049, Block 3050, Block 3053, Block 3054; Precinct 22, Precinct 23: Tract 4: Block Group 1: Block 1008, Block 1009, Block 1015, Block 1016, Block 1017, Block 1018, Block 1023, Block 1024, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038, Block 1045, Block 1046, Block 1047, Block 1048, Block 1049, Block 1052, Block 1053, Block 1054, Block 1067, Block 1068, Block 1081, Block 1082, Block 1083, Block 1084, Block 1085, Block 1086, Block 1087, Block 1088, Block 1089, Block 1090; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004; Tract 5: Block Group 1: Block 1000; Precinct 24: Tract 9: Block Group 6: Block 6004, Block 6006; Tract 10: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2035, Block 2036, Block 2037, Block 2038, Block 2039, Block 2045; Block Group 3; Precinct 25: Tract 8: Block Group 1: Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038, Block 1039, Block 1040, Block 1041, Block 1042, Block 1043, Block 1044, Block 1045; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3020, Block 3021, Block 3022, Block 3023, Block 3024, Block 3030, Block 3031, Block 3032, Block 3033; Tract 9: Block Group 3: Block 3010; Block Group 6: Block 6001, Block 6002, Block 6003, Block 6005, Block 6007, Block 6008, Block 6009, Block 6010, Block 6011, Block 6012, Block 6013, Block 6014, Block 6015, Block 6017, Block 6998, Block 6999; Block Group 7: Block 7023, Block 7024, Block 7025, Block 7026, Block 7027, Block 7028, Block 7029, Block 7030, Block 7031, Block 7032, Block 7033, Block 7034, Block 7035, Block 7036, Block 7042, Block 7043, Block 7044; Precinct 27: Tract 6.01: Block Group 1: Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1007; Precinct 29: Tract 14: Block Group 1: Block 1007, Block 1008, Block 1009, Block 1010, Block 1011; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003; Tract 15: Block Group 1: Block 1000; Tract 18: Block Group 1:

Block 1055, Block 1056, Block 1063, Block 1064, Block 1065; Tract 19: Block Group 1: Block 1011, Block 1017, Block 1018, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038, Block 1039, Block 1040, Block 1042, Block 1043, Block 1044, Block 1045, Block 1046, Block 1048; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3024, Block 3025, Block 3026, Block 3027, Block 3028, Block 3029, Block 3030, Block 3031, Block 3032, Block 3033, Block 3034, Block 3035, Block 3036, Block 3037, Block 3038, Block 3039, Block 3040, Block 3041, Block 3042, Block 3043, Block 3044, Block 3045, Block 3046, Block 3047, Block 3048, Block 3051, Block 3052, Block 3055.

District 12: Craven County: Precinct Brices Creek: Tract 9610: Block Group 6: Block 6011, Block 6022, Block 6023, Block 6025, Block 6026, Block 6027, Block 6028, Block 6029, Block 6030, Block 6031, Block 6032, Block 6033, Block 6034, Block 6035, Block 6036, Block 6037, Block 6038, Block 6997; Precinct Clarks: Tract 9604: Block Group 5: Block 5054, Block 5055, Block 5056, Block 5057, Block 5058, Block 5059, Block 5060, Block 5061, Block 5062; Tract 9605: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1009, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1028, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034; Block Group 3: Block 3016, Block 3017, Block 3025, Block 3026, Block 3994, Block 3996; Precinct Cove City, Precinct Croatan: Tract 9610: Block Group 7: Block 7007, Block 7013, Block 7014, Block 7015, Block 7016, Block 7017, Block 7018, Block 7019, Block 7020, Block 7021, Block 7022, Block 7023, Block 7024, Block 7025, Block 7026, Block 7027, Block 7028, Block 7029, Block 7030, Block 7031, Block 7032, Block 7033, Block 7034, Block 7035, Block 7036, Block 7037, Block 7038, Block 7039, Block 7999; Tract 9611: Block Group 2: Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2016, Block 2017, Block 2018, Block 2019, Block 2030, Block 2031; Precinct Dover, Precinct Fort Totten: Tract 9604: Block Group 1: Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038, Block 1039, Block 1050; Block Group 4: Block 4009, Block 4010, Block 4011, Block 4012; Tract 9606: Block Group 4: Block 4008, Block 4009, Block 4010, Block 4011, Block 4012, Block 4038, Block 4039, Block 4040; Tract 9607: Block Group 1: Block 1001, Block 1002, Block 1003, Block 1004, Block 1005; Block Group 2: Block 2000, Block 2001, Block 2013, Block 2014, Block 2017, Block 2018, Block 2019, Block 2021, Block 2022, Block 2025; Tract 9608: Block Group 3: Block 3032, Block 3044, Block 3045, Block 3046, Block 3047, Block 3049, Block 3050; Block Group 4: Block 4005, Block 4006, Block 4007, Block 4008, Block 4009, Block 4010, Block 4011, Block 4012, Block 4013, Block 4014, Block 4015, Block 4016, Block 4017, Block 4018, Block 4019, Block 4020; Block Group 5; Tract 9609: Block Group 3: Block 3007, Block 3008; Precinct George Street: Tract 9604: Block Group 1: Block 1000, Block 1001, Block 1027, Block 1040, Block 1995, Block 1999; Tract 9607: Block Group 1: Block 1000; Tract

9608: Block Group 3: Block 3023, Block 3024, Block 3025, Block 3026, Block 3051; Block Group 4: Block 4000, Block 4001, Block 4002, Block 4003, Block 4004; Block Group 6: Block 6000, Block 6003, Block 6004, Block 6005, Block 6006, Block 6007, Block 6008, Block 6009, Block 6010, Block 6011, Block 6012, Block 6013, Block 6014, Block 6015, Block 6016; Tract 9609: Block Group 1: Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1008, Block 1017, Block 1018, Block 1019, Block 1020, Block 1027, Block 1028, Block 1029, Block 1030, Block 1039, Block 1040, Block 1041, Block 1042, Block 1994, Block 1995; Block Group 2, Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3997, Block 3998, Block 3999; Precinct Glenburnie Park: Tract 9606: Block Group 3: Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3030, Block 3031, Block 3032, Block 3033, Block 3034, Block 3035, Block 3036, Block 3037, Block 3038; Block Group 4: Block 4000, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 4007, Block 4022, Block 4023, Block 4024, Block 4025; Tract 9608: Block Group 1: Block 1014, Block 1015, Block 1016; Block Group 2: Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3027, Block 3028, Block 3029, Block 3030, Block 3031, Block 3033, Block 3034, Block 3035, Block 3036, Block 3037, Block 3038, Block 3039, Block 3040, Block 3041, Block 3042, Block 3043, Block 3048; Block Group 6: Block 6001, Block 6002; Precinct Grantham: Tract 9610: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1998; Block Group 2: Block 2002, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2024, Block 2025, Block 2026, Block 2027, Block 2997, Block 2998; Block Group 5: Block 5005, Block 5006, Block 5007; Block Group 7: Block 7008, Block 7012; Precinct Grover C. Fields: Tract 9606: Block Group 3: Block 3013, Block 3014, Block 3024, Block 3025, Block 3027, Block 3028, Block 3029; Block Group 4: Block 4001, Block 4013, Block 4014, Block 4015, Block 4016, Block 4017, Block 4018, Block 4019, Block 4020, Block 4021, Block 4026, Block 4028, Block 4034; Tract 9607: Block Group 1: Block 1008, Block 1013; Precinct H.J. Macdonald: Tract 9605: Block Group 1: Block 1008, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1027, Block 1029, Block 1035, Block 1036, Block 1037, Block 1038, Block 1039, Block 1040, Block 1041, Block 1042, Block 1043, Block 1044, Block 1045, Block 1046, Block 1047, Block 1048, Block 1049, Block 1050, Block 1051, Block 1052, Block

1053, Block 1054, Block 1055, Block 1056; Block Group 2, Block Group 3: Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3018, Block 3019, Block 3020, Block 3024, Block 3027, Block 3028, Block 3029, Block 3030, Block 3993, Block 3998; Tract 9606: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006; Precinct Harlowe, Precinct Havelock East: Tract 9612: Block Group 1: Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019; Tract 9613: Block Group 2: Block 2000, Block 2001, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030; Block Group 3: Block 3017, Block 3018; Block Group 4: Block 4000, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 4007, Block 4008, Block 4009, Block 4020, Block 4021, Block 4022, Block 4025, Block 4026, Block 4028, Block 4029; Block Group 5: Block 5005, Block 5006, Block 5007, Block 5010, Block 5011, Block 5012, Block 5013, Block 5014, Block 5018, Block 5019, Block 5020, Block 5021, Block 5022, Block 5023, Block 5024, Block 5025, Block 5026, Block 5027, Block 5028, Block 5029, Block 5030, Block 5031, Block 5032, Block 5041, Block 5042, Block 5043, Block 5044, Block 5045, Block 5046, Block 5047, Block 5048, Block 5049, Block 5050, Block 5051, Block 5052, Block 5055, Block 5058, Block 5059, Block 5060, Block 5061, Block 5062, Block 5063; Precinct Havelock West: Tract 9611: Block Group 2: Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2032, Block 2033, Block 2066, Block 2067, Block 2068, Block 2069, Block 2070, Block 2071, Block 2072, Block 2073, Block 2074, Block 2075, Block 2076, Block 2077, Block 2078, Block 2079, Block 2080, Block 2081, Block 2082, Block 2083, Block 2084, Block 2085, Block 2086, Block 2087, Block 2088, Block 2997, Block 2998, Block 2999; Block Group 3: Block 3017, Block 3018, Block 3999; Tract 9612: Block Group 1: Block 1000, Block 1001, Block 1012, Block 1013, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1032, Block 1033, Block 1992, Block 1993, Block 1995, Block 1998, Block 1999; Tract 9613: Block Group 1: Block 1021, Block 1023, Block 1024, Block 1025; Block Group 4: Block 4001, Block 4023, Block 4024; Block Group 5: Block 5015, Block 5016, Block 5017; Block Group 6: Block 6047, Block 6048, Block 6049, Block 6050; Precinct Jasper: Tract 9603: Block Group 1: Block 1004, Block 1005, Block 1006, Block 1007, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038, Block 1039, Block 1040, Block 1997; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2035, Block 2036, Block 2037, Block 2038, Block 2039, Block 2040, Block 2041, Block 2042, Block 2043, Block 2044, Block 2045, Block 2046, Block 2047, Block 2048, Block 2049, Block 2050, Block 2051, Block 2052, Block 2053, Block 2054, Block 2055; Block Group 3: Block 3000, Block 3037; Block Group 4: Block 4053; Precinct New Bern West: Tract 9604: Block Group 4: Block 4013, Block 4014, Block

4015, Block 4016, Block 4017, Block 4018, Block 4019, Block 4020, Block 4021, Block 4022, Block 4023; Block Group 5: Block 5002, Block 5003, Block 5004, Block 5005, Block 5006, Block 5007, Block 5008, Block 5009, Block 5011, Block 5013, Block 5014, Block 5015, Block 5016, Block 5020, Block 5021, Block 5022, Block 5032, Block 5033, Block 5034, Block 5035, Block 5036, Block 5037, Block 5038, Block 5039; Tract 9606: Block Group 2: Block 2002, Block 2003; Precinct Rhems: Tract 9604: Block Group 5: Block 5010, Block 5012, Block 5051, Block 5052, Block 5053, Block 5063, Block 5064, Block 5065, Block 5066, Block 5067, Block 5068, Block 5069, Block 5071, Block 5072, Block 5075, Block 5076; Block Group 6: Block 6014, Block 6015, Block 6021, Block 6022, Block 6023; Block Group 7: Block 7002, Block 7048, Block 7049, Block 7051, Block 7052, Block 7053, Block 7054, Block 7992, Block 7999; Precinct River Bend: Tract 9604: Block Group 7: Block 7003, Block 7017, Block 7018, Block 7050, Block 7993, Block 7998; Precinct Trent Woods: Tract 9604: Block Group 6: Block 6036, Block 6997; Lenoir County: Precinct Falling Creek: Tract 110: Block Group 2: Block 2017; Block Group 4: Block 4000, Block 4001, Block 4002, Block 4003, Block 4004; Block Group 5: Block 5000, Block 5001; Precinct Kinston 1, Precinct Kinston 2, Precinct Kinston 3: Tract 106: Block Group 2: Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034; Block Group 4: Block 4015, Block 4016, Block 4017, Block 4018, Block 4019, Block 4020, Block 4021, Block 4022, Block 4023, Block 4024, Block 4025, Block 4026; Tract 107: Block Group 1: Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021; Block Group 2: Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2035, Block 2036, Block 2037, Block 2038, Block 2039, Block 2040, Block 2047, Block 2048, Block 2049, Block 2056, Block 2996; Block Group 3: Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3025, Block 3026, Block 3027, Block 3028, Block 3029, Block 3030, Block 3031, Block 3032, Block 3033, Block 3034, Block 3035, Block 3036, Block 3037, Block 3038, Block 3039, Block 3040, Block 3041, Block 3042, Block 3043, Block 3044, Block 3045, Block 3046; Precinct Kinston 4: Tract 108: Block Group 1: Block 1018, Block 1019; Precinct Kinston 5: Tract 106: Block Group 2: Block 2000, Block 2002, Block 2003, Block 2004, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2035, Block 2036, Block 2037, Block 2038; Block Group 3: Block 3005, Block 3006, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022; Block Group 4: Block 4000, Block 4001, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 4007, Block 4008, Block 4009, Block 4010, Block 4011, Block 4012, Block 4013, Block 4014; Precinct Kinston 6: Tract 101: Block Group 4: Block 4003, Block 4007, Block 4008, Block 4009, Block 4011, Block 4013, Block 4014, Block 4015, Block 4016, Block 4017, Block 4018, Block 4019; Tract 105:

Block Group 1, Block Group 2, Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004; Block Group 4: Block 4000, Block 4001, Block 4002; Precinct Kinston 7, Precinct Kinston 8, Precinct Kinston 9, Precinct Neuse: Tract 103: Block Group 1: Block 1998, Block 1999; Tract 107: Block Group 2: Block 2997, Block 2998, Block 2999; Block Group 3: Block 3999; Tract 113: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1014, Block 1015, Block 1016, Block 1019, Block 1020; Block Group 2: Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014; Block Group 3: Block 3018, Block 3019; Block Group 4: Block 4000, Block 4001, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 4007, Block 4008, Block 4009, Block 4010, Block 4011, Block 4012, Block 4013, Block 4014, Block 4032, Block 4987, Block 4988, Block 4997, Block 4998, Block 4999; Block Group 5: Block 5000, Block 5018; Precinct Sandhill: Tract 114: Block Group 1: Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1998; Precinct Southwest: Tract 114: Block Group 2: Block 2000, Block 2014, Block 2015, Block 2999; Precinct Vance: Tract 108: Block Group 1: Block 1010, Block 1011, Block 1012; Tract 109: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1012, Block 1013, Block 1014, Block 1015; Block Group 2: Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024.

District 13: Carteret County, Jones County.

District 14: Onslow County: Precinct Bear Creek, Precinct Brynn Marr, Precinct Half Moon, Precinct Hubert, Precinct Mills, Precinct Mortons, Precinct New River, Precinct Northeast, Precinct Northwoods East, Precinct precincts not defined 1, Precinct Swansboro.

District 15: Onslow County: Precinct Cross Roads, Precinct Folkstone, Precinct Haws Run, Precinct Holly Ridge, Precinct Jacksonville, Precinct Nine Mile, Precinct Northwoods West, Precinct precincts not defined 2, Precinct Sneads Ferry, Precinct Verona.

District 16: New Hanover County: Precinct Cape Fear 2: Tract 116.04: Block Group 1: Block 1000, Block 1001, Block 1004, Block 1005, Block 1999; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005; Precinct Cape Fear 3: Tract 116.03: Block Group 2: Block 2002, Block 2003, Block 2004, Block 2017, Block 2018, Block 2019, Block 2020; Block Group 3: Block 3010; Block Group 4; Tract 116.04: Block Group 2: Block 2006, Block 2007, Block 2026, Block 2027, Block 2031, Block 2034, Block 2035; Block Group 3: Block 3003, Block 3004, Block 3005, Block 3006, Block 3029, Block 3030, Block 3031, Block 3032, Block 3033; Precinct Harnett 1, Precinct Harnett 2 & 8, Precinct Harnett 4, Precinct Harnett 5, Precinct Harnett 6, Precinct Harnett 7: Tract 116.04: Block Group 2: Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2028, Block 2029, Block 2030, Block 2032, Block 2033, Block 2036, Block 2037; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3007, Block 3008, Block 3009, Block 3010,

Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3034, Block 3035, Block 3036, Block 3037, Block 3038, Block 3039, Block 3040, Block 3041, Block 3042, Block 3043, Block 3044, Block 3045, Block 3046, Block 3047, Block 3048, Block 3049, Block 3050, Block 3051, Block 3052, Block 3053, Block 3054, Block 3055, Block 3056, Block 3057, Block 3058, Block 3059, Block 3060, Block 3061, Block 3062, Block 3063, Block 3064, Block 3065; Precinct Harnett 9, Precinct Wilmington 12: Tract 104: Block Group 1: Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1019, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031; Block Group 2: Block 2000, Block 2012; Precinct Wilmington 13: Tract 105.01: Block Group 2: Block 2005; Tract 105.02: Block Group 4: Block 4000, Block 4008, Block 4009; Precinct Wilmington 18, Precinct Wilmington 22, Precinct Wilmington 23, Precinct Wilmington 24; Pender County: Precinct Burgaw South: Tract 9804: Block Group 1: Block 1000; Block Group 2: Block 2000, Block 2024, Block 2025, Block 2026, Block 2027, Block 2029, Block 2998, Block 2999; Precinct Rocky Point: Tract 9802: Block Group 2: Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2035, Block 2036, Block 2037, Block 2038, Block 2039, Block 2040, Block 2041, Block 2042, Block 2043, Block 2044, Block 2045, Block 2046, Block 2048, Block 2995, Block 2996, Block 2997, Block 2998, Block 2999; Tract 9804: Block Group 2: Block 2016, Block 2017, Block 2018; Block Group 5: Block 5070, Block 5071, Block 5072, Block 5075, Block 5076, Block 5077; Tract 9806: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1998, Block 1999; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2036, Block 2037, Block 2044, Block 2045, Block 2046, Block 2047, Block 2048, Block 2049, Block 2050, Block 2051, Block 2052; Precinct Scotts Hill, Precinct Surf City, Precinct Topsail Lower, Precinct Topsail Upper.

District 17: Brunswick County: Precinct Belville, Precinct Boiling Spring Lakes, Precinct Bolivia, Precinct Frying Pan, Precinct Grissettown, Precinct Hood Creek, Precinct Leland, Precinct Longwood: Tract 205.01: Block Group 2: Block 2011, Block 2084, Block 2085; Tract 206: Block Group 2: Block 2332, Block 2350, Block 2351, Block 2352, Block 2353; Precinct Mosquito, Precinct Oak Island 1, Precinct Oak Island 2, Precinct Oak Island 3, Precinct Secession 1, Precinct Secession 2, Precinct Shallotte: Tract 204.01: Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3024, Block 3025, Block 3026, Block 3027, Block 3028, Block 3029, Block 3030, Block 3031, Block 3032, Block 3033, Block 3034, Block 3035, Block 3036, Block 3037, Block 3038, Block 3039, Block 3040, Block 3041, Block



3042, Block 3043, Block 3051, Block 3075, Block 3076, Block 3997, Block 3998; Block Group 5: Block 5010, Block 5011, Block 5012, Block 5013, Block 5014, Block 5015, Block 5016, Block 5018, Block 5019, Block 5020, Block 5021, Block 5022, Block 5026, Block 5027, Block 5028, Block 5029, Block 5030, Block 5031, Block 5032, Block 5033, Block 5034, Block 5035, Block 5036, Block 5037, Block 5038, Block 5039, Block 5040, Block 5041, Block 5042, Block 5043, Block 5044, Block 5045, Block 5046, Block 5047, Block 5048, Block 5049, Block 5050, Block 5051, Block 5052, Block 5053, Block 5054, Block 5055, Block 5056, Block 5057, Block 5058, Block 5059, Block 5060, Block 5061, Block 5062, Block 5063, Block 5064, Block 5065, Block 5066, Block 5067, Block 5068, Block 5069, Block 5072, Block 5073, Block 5074, Block 5075, Block 5076, Block 5077, Block 5998, Block 5999; Tract 206: Block Group 2: Block 2277, Block 2278, Block 2279, Block 2281, Block 2282, Block 2283, Block 2284, Block 2285, Block 2286, Block 2287, Block 2288, Block 2291, Block 2292, Block 2293, Block 2294, Block 2295, Block 2296, Block 2297, Block 2298, Block 2300, Block 2301, Block 2302, Block 2310, Block 2311, Block 2312, Block 2313, Block 2314, Block 2315, Block 2316, Block 2317, Block 2318, Block 2319, Block 2320, Block 2321, Block 2322, Block 2323, Block 2324, Block 2325, Block 2326, Block 2327, Block 2328, Block 2329, Block 2330, Block 2331, Block 2334, Block 2335, Block 2336, Block 2337, Block 2338, Block 2339, Block 2340, Block 2341, Block 2342, Block 2343, Block 2344, Block 2345, Block 2346, Block 2347, Block 2348, Block 2349; Precinct Shingletree 1, Precinct Shingletree 2, Precinct Southport 1, Precinct Southport 2, Precinct Supply: Tract 204.01: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007; Block Group 2: Block 2022, Block 2023, Block 2024, Block 2025; Block Group 4; Precinct Towncreek, Precinct Woodburn.

District 18: New Hanover County: Precinct Cape Fear 1, Precinct Cape Fear 2: Tract 115: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038, Block 1039, Block 1040, Block 1041, Block 1042, Block 1043, Block 1044, Block 1045, Block 1046, Block 1047, Block 1048, Block 1049, Block 1050, Block 1051, Block 1052, Block 1059, Block 1992, Block 1993, Block 1994, Block 1997, Block 1998, Block 1999; Block Group 2: Block 2000, Block 2001, Block 2002; Block Group 5: Block 5984, Block 5985; Tract 116.03: Block Group 1, Block Group 2: Block 2000, Block 2001; Tract 116.04: Block Group 1: Block 1002, Block 1003; Precinct Cape Fear 3: Tract 103: Block Group 2: Block 2002; Tract 114: Block Group 1: Block 1000; Tract 116.03: Block Group 2: Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2021; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3009, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3024, Block 3025; Tract 116.04: Block Group 3: Block 3027, Block 3028; Precinct Harnett 7: Tract 116.04: Block Group 3: Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3022, Block 3023, Block 3024, Block 3025, Block 3026; Precinct Wilmington 01, Precinct Wilmington

02, Precinct Wilmington 03, Precinct Wilmington 06, Precinct Wilmington 07, Precinct Wilmington 08, Precinct Wilmington 09, Precinct Wilmington 10, Precinct Wilmington 12: Tract 104: Block Group 1: Block 1000; Block Group 2: Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018; Precinct Wilmington 13: Tract 105.01: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004; Precinct Wilmington 15; Pender County: Precinct Burgaw North, Precinct Burgaw South: Tract 9804: Block Group 1: Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1017, Block 1018, Block 1020; Block Group 2: Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2028; Block Group 3: Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3024, Block 3025, Block 3026, Block 3027, Block 3028, Block 3029, Block 3030, Block 3031, Block 3032, Block 3033, Block 3034, Block 3035, Block 3036, Block 3037, Block 3038, Block 3055, Block 3056, Block 3057, Block 3058, Block 3059, Block 3060, Block 3061, Block 3062, Block 3063, Block 3064, Block 3065, Block 3066, Block 3067, Block 3068; Block Group 4: Block 4058, Block 4059, Block 4060, Block 4061, Block 4062, Block 4063, Block 4064, Block 4065, Block 4066, Block 4067, Block 4999; Block Group 5: Block 5000, Block 5001, Block 5002, Block 5003, Block 5004, Block 5005, Block 5006, Block 5007, Block 5008, Block 5009, Block 5010, Block 5011, Block 5012, Block 5013, Block 5014, Block 5015, Block 5016, Block 5017, Block 5018, Block 5019, Block 5020, Block 5021, Block 5022, Block 5023, Block 5024, Block 5025, Block 5026, Block 5027, Block 5028, Block 5029, Block 5030, Block 5031, Block 5032, Block 5033, Block 5034, Block 5035, Block 5036, Block 5037, Block 5038, Block 5039, Block 5040, Block 5041, Block 5042, Block 5043, Block 5044, Block 5045, Block 5046, Block 5047, Block 5048, Block 5049, Block 5050, Block 5051, Block 5052, Block 5053, Block 5054, Block 5055, Block 5056, Block 5057, Block 5058, Block 5059, Block 5060, Block 5061, Block 5073, Block 5074; Tract 9806: Block Group 3: Block 3009; Precinct Canetuck, Precinct Caswell, Precinct Columbia, Precinct Grady, Precinct Holly Middle, Precinct Holly Upper, Precinct Long Creek, Precinct Penderlea, Precinct Rocky Point: Tract 9806: Block Group 1: Block 1996, Block 1997; Block Group 2: Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2038, Block 2039, Block 2040, Block 2041, Block 2042, Block 2043, Block 2999; Block Group 3: Block 3030, Block 3032, Block 3033; Precinct Union Lower, Precinct Union Upper.

District 19: New Hanover County: Precinct Federal Point 1, Precinct Federal Point 2, Precinct Federal Point 3, Precinct Federal Point 4, Precinct Federal Point 5, Precinct Harnett 3, Precinct Masonboro 2, Precinct Masonboro 3, Precinct Masonboro 4, Precinct Masonboro 5, Precinct Wilmington 04, Precinct Wilmington 05, Precinct Wilmington 11, Precinct Wilmington 14, Precinct Wilmington 16, Precinct Wilmington 17, Precinct Wilmington 19, Precinct Wilmington 20, Precinct Wilmington 21, Precinct Wrightsville Beach.

District 20: Brunswick County: Precinct Longwood: Tract 205.01: Block Group 1: Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038, Block 1039, Block 1040, Block 1041, Block 1042, Block 1043, Block 1044, Block 1045, Block 1046, Block 1047, Block 1048, Block 1049, Block 1050, Block 1051, Block 1052, Block 1053, Block 1054, Block 1055, Block 1998; Block Group 2: Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2052, Block 2053, Block 2054, Block 2055, Block 2056, Block 2057, Block 2058, Block 2059, Block 2060, Block 2061, Block 2062, Block 2063, Block 2064, Block 2065, Block 2066, Block 2067, Block 2068, Block 2069, Block 2070, Block 2075, Block 2086, Block 2087, Block 2998; Tract 205.02: Block Group 1: Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022; Block Group 2: Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2017, Block 2018; Tract 206: Block Group 2: Block 2245, Block 2246, Block 2247, Block 2248, Block 2333; Precinct Shallotte: Tract 204.01: Block Group 5: Block 5003, Block 5004, Block 5005, Block 5006, Block 5007, Block 5008, Block 5009, Block 5017, Block 5023, Block 5024, Block 5025, Block 5070, Block 5071; Tract 206: Block Group 2: Block 2090, Block 2091, Block 2092, Block 2128, Block 2133, Block 2134, Block 2135, Block 2136, Block 2137, Block 2138, Block 2139, Block 2140, Block 2141, Block 2142, Block 2143, Block 2144, Block 2145, Block 2146, Block 2147, Block 2148, Block 2149, Block 2150, Block 2151, Block 2152, Block 2153, Block 2154, Block 2155, Block 2156, Block 2157, Block 2165, Block 2166, Block 2167, Block 2168, Block 2169, Block 2170, Block 2171, Block 2172, Block 2173, Block 2174, Block 2175, Block 2176, Block 2177, Block 2178, Block 2179, Block 2180, Block 2181, Block 2182, Block 2183, Block 2184, Block 2185, Block 2186, Block 2187, Block 2188, Block 2189, Block 2190, Block 2196, Block 2197, Block 2198, Block 2199, Block 2200, Block 2201, Block 2202, Block 2203, Block 2204, Block 2205, Block 2206, Block 2207, Block 2208, Block 2209, Block 2210, Block 2211, Block 2212, Block 2213, Block 2214, Block 2215, Block 2216, Block 2217, Block 2218, Block 2219, Block 2220, Block 2221, Block 2222, Block 2223, Block 2224, Block 2225, Block 2226, Block 2227, Block 2228, Block 2229, Block 2230, Block 2231, Block 2232, Block 2233, Block 2237, Block 2238, Block 2249, Block 2250, Block 2251, Block 2252, Block 2253, Block 2254, Block 2255, Block 2258, Block 2259, Block 2260, Block 2261, Block 2275, Block 2276, Block 2280, Block 2289, Block 2290, Block 2299, Block 2303, Block 2304, Block 2305, Block 2306, Block 2307, Block 2308, Block 2309, Block 2354, Block 2355, Block 2356, Block 2357, Block 2358, Block 2359, Block 2362, Block 2363; Precinct Supply: Tract 204.01: Block Group 5: Block 5000, Block 5001, Block 5002; Tract 206: Block Group 2: Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2028, Block 2093, Block 2094, Block 2095, Block 2097, Block 2098, Block 2099, Block 2100, Block 2101, Block 2102, Block 2103, Block 2104, Block 2105, Block 2106, Block 2107, Block 2108,

Block 2109, Block 2110, Block 2111, Block 2112, Block 2113, Block 2114, Block 2115, Block 2116, Block 2117, Block 2118, Block 2119, Block 2120, Block 2121, Block 2122, Block 2123, Block 2124, Block 2125, Block 2126, Block 2127, Block 2129, Block 2130, Block 2131, Block 2132, Block 2256, Block 2257, Block 2262, Block 2263, Block 2264, Block 2265, Block 2266, Block 2267, Block 2268, Block 2269, Block 2270, Block 2271, Block 2272, Block 2273, Block 2274, Block 2360, Block 2361, Block 2364; Block Group 3: Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3024, Block 3025, Block 3026, Block 3027, Block 3028, Block 3029, Block 3055, Block 3056, Block 3057, Block 3058, Block 3059, Block 3060, Block 3061, Block 3062, Block 3063, Block 3064, Block 3065, Block 3066, Block 3067, Block 3068, Block 3088, Block 3089, Block 3090; Block Group 4: Block 4044, Block 4047, Block 4048, Block 4052, Block 4053, Block 4077, Block 4078, Block 4079, Block 4080, Block 4081, Block 4085, Block 4086, Block 4087, Block 4088, Block 4089, Block 4090, Block 4091, Block 4104, Block 4105, Block 4106, Block 4107, Block 4108, Block 4109, Block 4110, Block 4111, Block 4112, Block 4113, Block 4114, Block 4115, Block 4116, Block 4117, Block 4118, Block 4119, Block 4120, Block 4143, Block 4144, Block 4145, Block 4146, Block 4147, Block 4148, Block 4149, Block 4150, Block 4151, Block 4152, Block 4153, Block 4154, Block 4155, Block 4156, Block 4157, Block 4158, Block 4159, Block 4160, Block 4161, Block 4162, Block 4163, Block 4164, Block 4165, Block 4166, Block 4167, Block 4168, Block 4169, Block 4170, Block 4171, Block 4172, Block 4173, Block 4174, Block 4175, Block 4176, Block 4177, Block 4178, Block 4179, Block 4180, Block 4181, Block 4182, Block 4183, Block 4184, Block 4185, Block 4186, Block 4187, Block 4188, Block 4189; Precinct Waccamaw; Columbus County.

District 21: Sampson County: Precinct Clinton Central, Precinct Clinton East, Precinct Clinton Northeast, Precinct Clinton Southwest, Precinct Clinton West, Precinct Garland, Precinct Giddensville, Precinct Harrells, Precinct Ingold, Precinct Keener, Precinct Kitty Fork: Tract 9702: Block Group 4: Block 4027, Block 4028, Block 4036, Block 4037, Block 4039, Block 4040, Block 4041, Block 4042, Block 4043, Block 4044, Block 4045, Block 4046, Block 4047, Block 4048, Block 4049, Block 4050, Block 4051; Tract 9705: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1007, Block 1015, Block 1016, Block 1017, Block 1022, Block 1023; Tract 9706: Block Group 1: Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1024, Block 1025; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003; Precinct Lakewood, Precinct Newton Grove: Tract 9701: Block Group 4: Block 4005, Block 4006, Block 4007, Block 4008, Block 4009, Block 4019, Block 4020, Block 4024, Block 4025; Tract 9702: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1036, Block 1037, Block 1038, Block 1039; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2007, Block 2008, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block

2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2035, Block 2036, Block 2037, Block 2038, Block 2039, Block 2040, Block 2041, Block 2042, Block 2043, Block 2044, Block 2045, Block 2046, Block 2047, Block 2048, Block 2049, Block 2050, Block 2051, Block 2052, Block 2053, Block 2054, Block 2055, Block 2056, Block 2057, Block 2058, Block 2059, Block 2060, Block 2061, Block 2069, Block 2070, Block 2071, Block 2999; Precinct Roseboro: Tract 9704: Block Group 1: Block 1023, Block 1024, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038, Block 1039, Block 1040, Block 1041, Block 1042; Block Group 2: Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2034, Block 2039, Block 2042, Block 2050, Block 2051, Block 2052; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3024, Block 3025, Block 3036, Block 3037, Block 3038, Block 3039, Block 3040, Block 3041, Block 3042, Block 3043, Block 3044, Block 3045, Block 3046, Block 3047; Precinct Rowan, Precinct Salemburg: Tract 9705: Block Group 1: Block 1014, Block 1033, Block 1034, Block 1035, Block 1036, Block 1998, Block 1999; Block Group 2: Block 2026, Block 2027, Block 2029; Precinct Turkey; Wayne County: Precinct 10: Tract 12: Block Group 1: Block 1028, Block 1029, Block 1039, Block 1040, Block 1081, Block 1083, Block 1084, Block 1085, Block 1086, Block 1087, Block 1088, Block 1089, Block 1090, Block 1091; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2035, Block 2036, Block 2037, Block 2038, Block 2039, Block 2040, Block 2041, Block 2042; Tract 18: Block Group 1: Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2035, Block 2036, Block 2037, Block 2038, Block 2039, Block 2040, Block 2041, Block 2042, Block 2043, Block 2044, Block 2045, Block 2046, Block 2047, Block 2048, Block 2049, Block 2050, Block 2051, Block 2052, Block 2053, Block 2054, Block 2055, Block 2056, Block 2057, Block 2058, Block 2062, Block 2063, Block 2064, Block 2065, Block 2066, Block 2067, Block 2068, Block 2069, Block 2070, Block 2071, Block 2072, Block 2073, Block 2074; Precinct 11: Tract 12: Block Group 1: Block 1017, Block 1018, Block 1036, Block 1037, Block 1038, Block 1041, Block 1042, Block 1043, Block 1044, Block 1045, Block 1046, Block 1047, Block 1048, Block 1049, Block 1050, Block 1051, Block 1059, Block 1060, Block 1061, Block 1062, Block 1063, Block 1064, Block 1065, Block 1071, Block 1072, Block 1073, Block 1074, Block 1075, Block 1076, Block 1077, Block 1078, Block 1079, Block 1080, Block 1082;

Tract 18: Block Group 1: Block 1000; Tract 19: Block Group 1: Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1016, Block 1022, Block 1023; Precinct 17, Precinct 18, Precinct 19, Precinct 20, Precinct 21: Tract 14: Block Group 1: Block 1013, Block 1014, Block 1029, Block 1030, Block 1033, Block 1041, Block 1042, Block 1045, Block 1046, Block 1047, Block 1051; Block Group 3: Block 3003, Block 3009, Block 3010, Block 3012, Block 3014, Block 3015, Block 3016, Block 3022, Block 3023, Block 3027, Block 3028, Block 3029; Precinct 23: Tract 4: Block Group 1: Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1019, Block 1020, Block 1021, Block 1022, Block 1025, Block 1026; Tract 13: Block Group 3: Block 3058, Block 3059, Block 3060, Block 3061, Block 3062, Block 3063, Block 3064, Block 3065; Precinct 24: Tract 10: Block Group 2: Block 2040, Block 2041, Block 2042, Block 2043, Block 2044; Precinct 25: Tract 8: Block Group 2: Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017; Block Group 3: Block 3019, Block 3028, Block 3029, Block 3034, Block 3035, Block 3036, Block 3037, Block 3038, Block 3039, Block 3040, Block 3041, Block 3042, Block 3043, Block 3044, Block 3045, Block 3046, Block 3047, Block 3050; Tract 9: Block Group 7: Block 7037, Block 7038, Block 7039, Block 7040; Tract 10: Block Group 1: Block 1026; Precinct 26: Tract 6.02: Block Group 1: Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1014, Block 1015, Block 1016, Block 1017; Tract 9: Block Group 4: Block 4009, Block 4010, Block 4011, Block 4012, Block 4013, Block 4021, Block 4022, Block 4023; Block Group 5: Block 5010, Block 5011, Block 5012, Block 5013, Block 5014, Block 5015, Block 5016, Block 5017, Block 5024, Block 5025, Block 5026, Block 5027, Block 5028, Block 5029, Block 5030, Block 5031, Block 5032, Block 5033, Block 5034, Block 5035, Block 5036, Block 5037, Block 5038, Block 5039, Block 5040, Block 5041, Block 5042, Block 5995, Block 5996; Block Group 7: Block 7000, Block 7001, Block 7002, Block 7003, Block 7004, Block 7005, Block 7006, Block 7007, Block 7008, Block 7009, Block 7010, Block 7011, Block 7012, Block 7013, Block 7014, Block 7015, Block 7016, Block 7017, Block 7018, Block 7019, Block 7020, Block 7021, Block 7022, Block 7041; Precinct 27: Tract 6.01: Block Group 1: Block 1000, Block 1006, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1020, Block 1021, Block 1022, Block 1998, Block 1999; Block Group 2, Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3008, Block 3009; Tract 6.02: Block Group 2: Block 2027, Block 2997; Tract 9: Block Group 4: Block 4999; Block Group 5: Block 5000, Block 5001, Block 5002, Block 5003, Block 5004, Block 5005, Block 5006, Block 5007, Block 5008, Block 5018, Block 5019, Block 5020, Block 5021, Block 5022, Block 5023, Block 5997, Block 5998, Block 5999; Precinct 28: Tract 7: Block Group 3: Block 3002, Block 3033; Precinct 29: Tract 15: Block Group 1: Block 1001, Block 1002, Block 1003; Tract 18: Block Group 1: Block 1047, Block 1048, Block 1057, Block 1058, Block 1059, Block 1061, Block 1062; Precinct 30.

District 22: Bladen County, Cumberland County: Precinct Alderman, Precinct Beaver Dam & Cedar Creek, Precinct Cumberland 1, Hope Mills 1, & Stoney Point: Tract 16.01: Block Group 2: Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2035, Block 2036, Block 2037, Block 2038, Block 2039, Block 2040, Block 2043; Block Group 3: Block 3024; Tract 19.01: Block Group 1: Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021,

Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038, Block 1039, Block 1040; Tract 31: Block Group 1: Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1037, Block 1038, Block 1039, Block 1040, Block 1041, Block 1042, Block 1043, Block 1044, Block 1045, Block 1046, Block 1047, Block 1048, Block 1049, Block 1050, Block 1051, Block 1052, Block 1053, Block 1054, Block 1055, Block 1056, Block 1057, Block 1064, Block 1065, Block 1995, Block 1996, Block 1997, Block 1998, Block 1999; Block Group 2, Block Group 3: Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3034, Block 3035, Block 3995, Block 3996, Block 3997; Block Group 4: Block 4026; Tract 32.01: Block Group 1: Block 1026, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1045, Block 1046, Block 1047, Block 1048, Block 1049, Block 1050, Block 1051, Block 1998; Block Group 2, Block Group 3: Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3024, Block 3025, Block 3026, Block 3027, Block 3028, Block 3029, Block 3030, Block 3031, Block 3032, Block 3033, Block 3034; Tract 32.04: Block Group 4: Block 4014; Precinct Hope Mills 2: Tract 16.01: Block Group 1: Block 1030, Block 1032, Block 1033, Block 1034, Block 1993, Block 1995, Block 1999; Block Group 2: Block 2996; Block Group 4: Block 4998, Block 4999; Tract 30: Block Group 1: Block 1007, Block 1008, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038, Block 1039, Block 1040, Block 1041, Block 1042, Block 1043, Block 1044, Block 1045, Block 1046, Block 1047, Block 1048, Block 1049, Block 1051, Block 1052, Block 1053, Block 1054, Block 1055, Block 1056; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2012, Block 2013; Block Group 5: Block 5014, Block 5015, Block 5019, Block 5020; Tract 31: Block Group 3: Block 3000, Block 3009, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3024, Block 3025, Block 3026, Block 3027, Block 3028, Block 3029, Block 3030, Block 3031, Block 3032, Block 3033, Block 3994, Block 3998, Block 3999; Block Group 4: Block 4000, Block 4001, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 4007, Block 4008, Block 4009, Block 4010, Block 4011, Block 4012, Block 4013, Block 4014, Block 4015, Block 4016, Block 4017, Block 4021, Block 4023, Block 4024, Block 4025, Block 4027, Block 4028, Block 4029, Block 4030, Block 4031, Block 4032, Block 4033, Block 4034, Block 4035, Block 4036, Block 4037, Block 4038, Block 4039, Block 4040, Block 4041, Block 4042, Block 4043, Block 4044, Block 4045, Block 4046, Block 4047, Block 4048, Block 4049, Block 4050, Block 4051, Block 4052, Block 4053, Block 4054, Block 4055, Block 4056, Block 4057, Block 4058, Block 4059, Block 4060, Block 4061, Block 4062, Block 4063, Block 4064, Block 4065, Block 4066, Block 4067, Block 4068,

Block 4069, Block 4070, Block 4992, Block 4994, Block 4997, Block 4998, Block 4999; Precinct Judson-Vander: Tract 28: Block Group 3: Block 3027, Block 3028, Block 3029, Block 3030, Block 3999; Precinct Sherwood, Precinct Stedman: Tract 28: Block Group 1: Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038, Block 1039, Block 1999; Block Group 2, Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3021, Block 3022, Block 3023, Block 3024, Block 3025, Block 3026; Tract 29: Block Group 1: Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1013.

District 23: Edgecombe County: Precinct Battleboro, Precinct Conetoe, Precinct Lawrence, Precinct Leggett, Precinct Lewis, Precinct Macclesfield, Precinct Old Sparta, Precinct Pinetops, Precinct Speed, Precinct Tarboro 1, Precinct Tarboro 2, Precinct Tarboro 3, Precinct Tarboro 4, Precinct Whitakers; Wilson County: Precinct Black Creek, Precinct Crossroads, Precinct Gardners, Precinct Oldfields, Precinct Saratoga, Precinct Spring Hill, Precinct Stantonsburg, Precinct Taylors, Precinct Wilson I, Precinct Wilson J.

District 24: Edgecombe County: Precinct Rocky Mount 1, Precinct Rocky Mount 2, Precinct Rocky Mount 4, Precinct Rocky Mount 5, Precinct Sharpsburg, Precinct Temperance Hall, Precinct West Edgecombe; Wilson County: Precinct Toisnot, Precinct Wilson A, Precinct Wilson B, Precinct Wilson C, Precinct Wilson D, Precinct Wilson E, Precinct Wilson F, Precinct Wilson G, Precinct Wilson H, Precinct Wilson K, Precinct Wilson L, Precinct Wilson M, Precinct Wilson N, Precinct Wilson P, Precinct Wilson Q.

District 25: Nash County: Precinct Bailey, Precinct Castalia, Precinct Coopers, Precinct Drywells, Precinct Ferrells, Precinct Griffins: Tract 108: Block Group 1: Block 1064, Block 1065; Tract 109: Block Group 1: Block 1029, Block 1030, Block 1031, Block 1034, Block 1035, Block 1036, Block 1038, Block 1039; Block Group 2: Block 2011, Block 2012; Block Group 3: Block 3000, Block 3001, Block 3002; Block Group 4: Block 4000, Block 4001, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 4007, Block 4008, Block 4009, Block 4010, Block 4011, Block 4012, Block 4013, Block 4014, Block 4015, Block 4016, Block 4017, Block 4018, Block 4019, Block 4020, Block 4021, Block 4022, Block 4023, Block 4024, Block 4027, Block 4028, Block 4029, Block 4030, Block 4031, Block 4032, Block 4033, Block 4034, Block 4035, Block 4040, Block 4043, Block 4044, Block 4045, Block 4046, Block 4999; Precinct Jacksons, Precinct Mannings 1, Precinct Mannings 2, Precinct Nashville, Precinct Oak Level, Precinct Red Oak, Precinct Rocky Mount 04: Tract 102: Block Group 3: Block 3000, Block 3003, Block 3007, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3024; Block Group 4, Block Group 5: Block 5000, Block 5001, Block 5002, Block 5003, Block 5004, Block 5012, Block 5013; Tract 103: Block Group 4: Block 4012, Block 4013, Block 4019, Block 4020, Block 4021, Block 4022; Block Group 5: Block 5000, Block 5001, Block 5002, Block 5004; Block Group 6: Block 6020, Block 6036, Block 6037, Block 6038, Block 6039, Block 6040, Block 6042, Block 6043, Block 6044, Block 6045, Block 6046; Precinct Rocky Mount



05, Precinct Rocky Mount 06, Precinct Rocky Mount 07, Precinct Rocky Mount 08, Precinct Rocky Mount 09, Precinct Stony Creek, Precinct Whitakers North 2.

District 26: Johnston County: Precinct Beulah North, Precinct Beulah South, Precinct Clayton East, Precinct Clayton North, Precinct Clayton South, Precinct Clayton West, Precinct Micro, Precinct Oneals North, Precinct Oneals South, Precinct Pine Level: Tract 403: Block Group 2: Block 2020, Block 2057, Block 2058, Block 2059, Block 2060, Block 2061, Block 2062; Block Group 4: Block 4000, Block 4012, Block 4013, Block 4072, Block 4073, Block 4074, Block 4075, Block 4076, Block 4077, Block 4078, Block 4079, Block 4080, Block 4081, Block 4082, Block 4083, Block 4084; Block Group 6: Block 6000, Block 6001, Block 6002, Block 6033; Tract 404: Block Group 1, Block Group 2: Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2035, Block 2036, Block 2037; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3017, Block 3018, Block 3019, Block 3021, Block 3022, Block 3023; Precinct Selma East, Precinct Selma West, Precinct Smithfield East: Tract 406: Block Group 1, Block Group 2: Block 2012, Block 2013, Block 2014, Block 2016; Block Group 3: Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3020, Block 3021, Block 3022, Block 3023, Block 3024, Block 3025; Tract 407: Block Group 2: Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2027, Block 2035, Block 2036, Block 2037, Block 2038, Block 2039, Block 2040, Block 2041, Block 2042; Block Group 3: Block 3024, Block 3025, Block 3026, Block 3027, Block 3028, Block 3029, Block 3030, Block 3031, Block 3032, Block 3033, Block 3034, Block 3046, Block 3047, Block 3048; Tract 408: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038, Block 1039, Block 1042, Block 1043, Block 1044, Block 1045; Tract 412: Block Group 2: Block 2000; Precinct Smithfield North, Precinct Smithfield South: Tract 408: Block Group 1: Block 1005, Block 1006, Block 1019, Block 1030, Block 1031, Block 1040, Block 1041; Block Group 2, Block Group 3; Tract 409: Block Group 4: Block 4027, Block 4028; Tract 412: Block Group 1: Block 1012, Block 1014, Block 1015, Block 1016; Block Group 2: Block 2001; Precinct Wilders North, Precinct Wilders South, Precinct Wilsons Mills.

District 27: Northampton County, Vance County: Precinct Dabney, Precinct Henderson East 1, Precinct Henderson East 2, Precinct Henderson North 1, Precinct Henderson North 2, Precinct Henderson West 1, Precinct Henderson West 2, Precinct Middleburg, Precinct Townsville, Precinct Williamsboro; Warren County.

District 28: Johnston County: Precinct Banner North, Precinct Banner South, Precinct Banner West, Precinct Bentonville, Precinct Boon Hill North, Precinct Boon Hill South, Precinct Cleveland North, Precinct Cleveland South, Precinct Elevation

North, Precinct Elevation South, Precinct Ingrams East, Precinct Ingrams West, Precinct Meadow North, Precinct Meadow South, Precinct Pine Level: Tract 404: Block Group 3: Block 3016, Block 3020, Block 3024, Block 3025, Block 3026, Block 3027, Block 3028, Block 3029, Block 3030, Block 3031, Block 3032, Block 3033, Block 3034, Block 3035, Block 3036, Block 3037, Block 3038, Block 3039; Tract 407: Block Group 2: Block 2000, Block 2047; Precinct Pleasant Grove North, Precinct Pleasant Grove South, Precinct Smithfield East: Tract 406: Block Group 2: Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2015, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025; Block Group 3: Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3019, Block 3026, Block 3027, Block 3028; Tract 407: Block Group 2: Block 2026, Block 2032, Block 2033, Block 2034, Block 2046; Tract 412: Block Group 2: Block 2007, Block 2008, Block 2999; Block Group 5: Block 5000, Block 5002; Precinct Smithfield South: Tract 409: Block Group 4: Block 4025, Block 4026; Block Group 5: Block 5050, Block 5051, Block 5052, Block 5057, Block 5058, Block 5059, Block 5060, Block 5061, Block 5063, Block 5064, Block 5065, Block 5066, Block 5067, Block 5068; Tract 412: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1013, Block 1998, Block 1999; Block Group 2: Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2993, Block 2998; Tract 415: Block Group 3: Block 3024; Sampson County: Precinct Autryville, Precinct Clement, Precinct Herring, Precinct Kitty Fork: Tract 9702: Block Group 4: Block 4030, Block 4031, Block 4032, Block 4033, Block 4034, Block 4035, Block 4038; Tract 9705: Block Group 1: Block 1006, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013; Block Group 2: Block 2011; Precinct Mingo, Precinct Newton Grove: Tract 9702: Block Group 1: Block 1019, Block 1020, Block 1021; Block Group 2: Block 2006, Block 2009, Block 2062, Block 2063, Block 2064, Block 2066, Block 2067, Block 2068; Block Group 3: Block 3000, Block 3001, Block 3021, Block 3022, Block 3023; Precinct Plainview, Precinct Roseboro: Tract 9704: Block Group 1: Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1014, Block 1026, Block 1027; Block Group 3: Block 3006, Block 3007, Block 3048, Block 3049, Block 3050, Block 3053; Block Group 4: Block 4025, Block 4026, Block 4033, Block 4034, Block 4035, Block 4036, Block 4037, Block 4038, Block 4039, Block 4040, Block 4041, Block 4042, Block 4043, Block 4044, Block 4045; Tract 9709: Block Group 1: Block 1036; Precinct Salemburg: Tract 9704: Block Group 1: Block 1000, Block 1001; Tract 9705: Block Group 2: Block 2013, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2028; Block Group 3: Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3024, Block 3025, Block 3026, Block 3027, Block 3028, Block 3029, Block 3030, Block 3031, Block 3032, Block 3033, Block 3034, Block 3035, Block 3036, Block 3037, Block 3038, Block 3039, Block 3040, Block 3041, Block 3042, Block 3043, Block 3044, Block 3045, Block 3046, Block 3047, Block 3048, Block 3049, Block 3050, Block 3051, Block 3052, Block 3053, Block 3054, Block 3055, Block 3056, Block 3057, Block 3058, Block 3059, Block 3060, Block

3062, Block 3065, Block 3066, Block 3067, Block 3071, Block 3073, Block 3074, Block 3075; Precinct Westbrook.

District 29: Durham County: Precinct 07, Precinct 08, Precinct 09, Precinct 10, Precinct 11, Precinct 12, Precinct 13, Precinct 16, Precinct 17, Precinct 27, Precinct 38, Precinct 39, Precinct 40, Precinct 41, Precinct 42, Precinct 48, Precinct 49, Precinct 51, Precinct 53, Precinct 54; Tract 20.12: Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3024, Block 3025, Block 3026, Block 3029, Block 3999.

District 30: Durham County: Precinct 01, Precinct 02, Precinct 03, Precinct 04, Precinct 05, Precinct 06, Precinct 24, Precinct 36, Precinct 37, Precinct 43, Precinct 44, Precinct 45; Tract 16.01: Block Group 2: Block 2007; Block Group 3: Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020; Tract 16.03: Block Group 1, Block Group 2: Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024; Tract 16.04: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1032, Block 1033, Block 1034; Block Group 2: Block 2037, Block 2043, Block 2044, Block 2046, Block 2047, Block 2048; Precinct 46, Precinct 50.

District 31: Durham County: Precinct 14, Precinct 15, Precinct 18, Precinct 19, Precinct 29, Precinct 30, Precinct 31, Precinct 32, Precinct 33, Precinct 34, Precinct 35, Precinct 47, Precinct 52, Precinct 54; Tract 20.14: Block Group 1: Block 1047, Block 1048, Block 1049, Block 1050, Block 1051, Block 1052, Block 1053, Block 1054, Block 1055, Block 1056, Block 1057, Block 1058, Block 1064.

District 32: Granville County, Vance County: Precinct Henderson South 1, Precinct Henderson South 2, Precinct Hilltop, Precinct Kittrell, Precinct Sandy Creek, Precinct Watkins.

District 33: Wake County: Precinct 01-12: Tract 518: Block Group 1: Block 1007, Block 1008, Block 1009; Block Group 3: Block 3000, Block 3001, Block 3008, Block 3018; Tract 527.01: Block Group 2: Block 2028, Block 2029, Block 2030, Block 2031, Block 2036, Block 2037, Block 2038, Block 2039; Precinct 01-13, Precinct 01-19, Precinct 01-20, Precinct 01-22, Precinct 01-28, Precinct 01-34, Precinct 01-38, Precinct 01-40, Precinct 01-46, Precinct 13-01: Tract 527.04: Block Group 1: Block 1000, Block 1028; Tract 325.02, Tract 540.10: Block Group 2: Block 2007, Block 2015, Block 2016, Block 2017, Block 2018, Block 2024, Block 2029, Block 2030, Block 2031; Tract 541.04: Block Group 1: Block 1010, Block 1016, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1058; Precinct 13-07: Tract 540.09: Block Group 1: Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036; Block Group 2: Block 2112, Block 2113, Block 2114, Block 2115, Block 2116, Block 2117, Block 2118, Block 2119, Block 2120, Block 2121, Block 2122, Block 2123, Block 2124, Block 2125, Block 2126, Block 2127, Block 2128, Block 2129, Block 2130; Precinct 17-01, Precinct 17-03, Precinct 17-05, Precinct 17-07, Precinct 17-09, Precinct 17-10, Precinct 17-11.

District 34: Wake County: Precinct 01-10, Precinct 01-11, Precinct 01-15, Precinct 01-17, Precinct 01-18, Precinct 01-30, Precinct 01-36, Precinct 01-37, Precinct 01-39, Precinct 01-42, Precinct 01-43, Precinct 01-44, Precinct 01-45, Precinct 01-51, Precinct 07-02, Precinct 07-03, Precinct 07-04, Precinct 07-06, Precinct 07-09, Precinct 07-11, Precinct 07-13, Precinct 13-02, Precinct 13-05, Precinct 13-06.

District 35: Wake County: Precinct 01-01, Precinct 01-02, Precinct 01-03, Precinct 01-04, Precinct 01-16, Precinct 01-29, Precinct 01-31, Precinct 01-32, Precinct 01-33, Precinct 01-41, Precinct 01-48, Precinct 01-49, Precinct 04-02, Precinct 04-05, Precinct 04-08, Precinct 04-11, Precinct 04-17, Precinct 04-18, Precinct 04-21, Precinct 07-01: Tract 525.01: Block Group 1: Block 1016, Block 1017; Precinct 11-01, Precinct 11-02, Precinct 18-06: Tract 530.02: Block Group 1: Block 1009, Block 1010, Block 1011, Block 1012.

District 36: Wake County: Precinct 04-01, Precinct 04-03, Precinct 04-04, Precinct 04-06, Precinct 04-07, Precinct 04-10, Precinct 04-12, Precinct 04-14, Precinct 04-15, Precinct 04-16, Precinct 04-20, Precinct 18-02, Precinct 18-03, Precinct 18-04: Tract 530.01: Block Group 1: Block 1000, Block 1010, Block 1011, Block 1012, Block 1998, Block 1999; Precinct 18-05, Precinct 18-06: Tract 523.01: Block Group 1: Block 1003, Block 1005, Block 1006, Block 1017, Block 1018, Block 1019, Block 1020, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1043, Block 1996, Block 1997, Block 1998, Block 1999; Tract 524.04: Block Group 1: Block 1043, Block 1996, Block 1997, Block 1998, Block 1999; Tract 530.01: Block Group 2: Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027; Tract 530.02: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038, Block 1039, Block 1040, Block 1041, Block 1042, Block 1043, Block 1044, Block 1045, Block 1046, Block 1049, Block 1050, Block 1057, Block 1058, Block 1993, Block 1994, Block 1998, Block 1999; Precinct 18-07, Precinct 18-08, Precinct 20-03, Precinct 20-05, Precinct 20-09.

District 37: Wake County: Precinct 03-00, Precinct 06-01, Precinct 06-02, Precinct 06-03, Precinct 12-01, Precinct 12-02, Precinct 12-03, Precinct 12-04, Precinct 12-05, Precinct 12-06, Precinct 12-07, Precinct 15-01, Precinct 15-02: Tract 529: Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2027, Block 2031, Block 2032, Block 2033; Tract 531.03: Block Group 1: Block 1000, Block 1021, Block 1022, Block 1023; Precinct 15-03, Precinct 20-01, Precinct 20-06, Precinct 20-07: Tract 534.03: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1034, Block 1035, Block 1036, Block 1039, Block 1040, Block 1041, Block 1077, Block 1078; Block Group 4: Block 4013, Block 4014, Block 4015, Block 4017, Block 4039, Block 4040, Block 4041, Block 4042, Block 4045, Block 4046, Block 4047, Block 4048, Block 4049, Block 4050, Block 4051, Block 4052, Block 4053, Block 4066, Block 4067, Block 4068, Block 4069, Block 4070, Block 4071, Block 4072, Block 4073, Block 4077, Block 4078, Block 4080, Block 4081, Block 4147, Block 4148; Precinct 20-08.

District 38: Wake County: Precinct 01-05, Precinct 01-06, Precinct 01-07, Precinct 01-09, Precinct 01-12: Tract 517: Block Group 1: Block 1008; Tract 518: Block Group 1: Block 1010, Block 1011, Block 1020, Block 1021, Block 1022, Block 1023; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005; Block Group 3: Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017; Precinct 01-14, Precinct 01-21, Precinct 01-23, Precinct 01-25, Precinct 01-26, Precinct 01-27, Precinct 01-35, Precinct 01-50, Precinct 15-02: Tract 530.02: Block Group 4; Precinct 15-04, Precinct 16-02: Tract 522.02: Block Group 1: Block 1046, Block 1047, Block 1048, Block 1049, Block 1054, Block 1055, Block 1057, Block 1058, Block 1066, Block 1067, Block 1068, Block 1070, Block 1071, Block 1072, Block 1073, Block 1074, Block 1075, Block 1076, Block 1077, Block 1078, Block 1079, Block 1081, Block 1082, Block 1083, Block 1084; Tract 528.03: Block Group 4: Block 4002; Precinct 16-03, Precinct 16-05, Precinct 16-06: Tract 528.01: Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017; Block Group 4; Precinct 16-07, Precinct 18-01, Precinct 18-04: Tract 528.02: Block Group 1: Block 1007, Block 1008; Tract 530.01: Block Group 1: Block 1026, Block 1027, Block 1028, Block 1029; Tract 530.02: Block Group 1: Block 1047, Block 1048, Block 1051, Block 1052, Block 1053, Block 1054, Block 1055, Block 1056, Block 1992; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018; Block Group 5: Block 5000, Block 5001, Block 5010.

District 39: Wake County: Precinct 09-01, Precinct 09-02, Precinct 09-03, Precinct 10-01, Precinct 10-02, Precinct 10-03, Precinct 10-04, Precinct 13-01: Tract 541.04: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1040; Precinct 13-03: Tract 540.09: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026; Block Group 2: Block 2088, Block 2089, Block 2090, Block 2091, Block 2092, Block 2093, Block 2094, Block 2095, Block 2096, Block 2097, Block 2098, Block 2100; Precinct 13-07: Tract 540.09: Block Group 2: Block 2099, Block 2101, Block 2102, Block 2103, Block 2104, Block 2105, Block 2106, Block 2107, Block 2108, Block 2109, Block 2110, Block 2111; Precinct 16-01, Precinct 16-02: Tract 521.01: Block Group 2: Block 2034; Tract 528.03: Block Group 1, Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2036, Block 2037, Block 2038, Block 2039, Block 2040, Block 2041, Block 2042, Block 2043, Block 2044, Block 2045, Block 2046, Block 2047, Block 2048, Block 2049, Block 2050, Block 2051, Block 2052, Block 2053, Block 2054, Block 2055, Block 2056, Block 2057, Block 2058, Block 2059, Block 2060, Block 2061, Block 2062, Block 2063, Block 2064, Block 2065, Block 2066, Block 2067, Block 2068, Block 2069, Block 2070, Block 2071, Block 2072, Block 2073, Block 2074, Block 2075; Block Group 3, Block Group

4: Block 4000, Block 4001, Block 4003, Block 4004, Block 4005, Block 4006, Block 4007, Block 4008; Tract 528.04: Block Group 3: Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3999; Precinct 16-04, Precinct 16-06: Tract 528.05: Block Group 2, Block Group 3: Block 3010, Block 3011, Block 3012, Block 3013, Block 3999; Block Group 4; Precinct 16-08, Precinct 16-09, Precinct 17-02, Precinct 17-04, Precinct 17-06, Precinct 17-08, Precinct 19-08: Tract 541.02: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038, Block 1039, Block 1040, Block 1042, Block 1043, Block 1044, Block 1045, Block 1046, Block 1047, Block 1999.

District 40: Wake County: Precinct 01-47, Precinct 02-01, Precinct 02-02, Precinct 02-03, Precinct 02-04, Precinct 02-05, Precinct 02-06, Precinct 07-05, Precinct 08-04, Precinct 08-05, Precinct 08-07, Precinct 08-08, Precinct 13-03: Tract 540.09: Block Group 2: Block 2062, Block 2063, Block 2064, Block 2065, Block 2066, Block 2067, Block 2068, Block 2069, Block 2070, Block 2071, Block 2072, Block 2073, Block 2074, Block 2075, Block 2076, Block 2077, Block 2078, Block 2082, Block 2083, Block 2084, Block 2085, Block 2086, Block 2087; Precinct 13-04, Precinct 14-01, Precinct 14-02, Precinct 19-01, Precinct 19-02, Precinct 19-03, Precinct 19-04, Precinct 19-05, Precinct 19-06, Precinct 19-07, Precinct 19-08: Tract 542.02: Block Group 4: Block 4009, Block 4010, Block 4011, Block 4012, Block 4013, Block 4014, Block 4015, Block 4016, Block 4017, Block 4018, Block 4019, Block 4024, Block 4025, Block 4026, Block 4997, Block 4998.

District 41: Wake County: Precinct 04-09, Precinct 04-13, Precinct 04-19, Precinct 05-01, Precinct 05-02, Precinct 05-03, Precinct 07-01: Tract 525.01: Block Group 2: Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2035, Block 2036, Block 2037, Block 2038, Block 2039, Block 2040, Block 2041; Precinct 07-07, Precinct 07-10, Precinct 07-12, Precinct 08-01, Precinct 08-02, Precinct 08-03, Precinct 08-06, Precinct 08-09, Precinct 20-02, Precinct 20-04, Precinct 20-07: Tract 534.03: Block Group 1: Block 1037, Block 1038, Block 1079, Block 1080; Block Group 2: Block 2053, Block 2058, Block 2059, Block 2060, Block 2061, Block 2062, Block 2063, Block 2064, Block 2065, Block 2066, Block 2067, Block 2068, Block 2069, Block 2070, Block 2071, Block 2072; Block Group 4: Block 4012, Block 4043, Block 4044; Precinct 20-10.

District 42: Cumberland County: Precinct Auman, Precinct Cliffdale West, Precinct Cross Creek 17, Precinct Cross Creek 27: Tract 33.07: Block Group 2: Block 2000; Tract 33.08: Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3014; Precinct Cross Creek 28: Tract 32.03: Block Group 1: Block 1008, Block 1009, Block 1010, Block 1014, Block 1015; Tract 32.04: Block Group 1: Block 1001; Tract 32.05: Block Group 2: Block 2000, Block 2001, Block 2003, Block 2004; Tract 33.02: Block Group 1: Block 1000, Block 1001, Block

1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1013, Block 1999; Block Group 3: Block 3006, Block 3007, Block 3008, Block 3009, Block 3018, Block 3019, Block 3020, Block 3996, Block 3997, Block 3998, Block 3999; Tract 33.07: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1005, Block 1006, Block 1007, Block 1009, Block 1010, Block 1011; Block Group 2: Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2999; Precinct Cross Creek 32, Precinct Cumberland 1, Hope Mills 1, & Stoney Point: Tract 32.01: Block Group 1: Block 1022, Block 1023, Block 1024, Block 1025, Block 1028, Block 1038, Block 1999; Tract 32.04: Block Group 4: Block 4000, Block 4001, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 4007, Block 4008, Block 4009, Block 4998, Block 4999; Block Group 5: Block 5003, Block 5004, Block 5005, Block 5006, Block 5007, Block 5008, Block 5009, Block 5010, Block 5011, Block 5012, Block 5013, Block 5014, Block 5015, Block 5016, Block 5017, Block 5018, Block 5019, Block 5998, Block 5999; Precinct Lake Rim, Precinct Manchester: Tract 34: Block Group 1: Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2017, Block 2018, Block 2020, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2035, Block 2036, Block 2037, Block 2038, Block 2039, Block 2040, Block 2041, Block 2042, Block 2043, Block 2044, Block 2045, Block 2046, Block 2047, Block 2048, Block 2049, Block 2050, Block 2053, Block 2054, Block 2055, Block 2056, Block 2057, Block 2058, Block 2059, Block 2060, Block 2061, Block 2062, Block 2063, Block 2064, Block 2065, Block 2066, Block 2067, Block 2068, Block 2074, Block 2087, Block 2088, Block 2089, Block 2090, Block 2092, Block 2093, Block 2094, Block 2095, Block 2096, Block 2097, Block 2098, Block 2099, Block 2100, Block 2997, Block 2998, Block 2999; Tract 35: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1009, Block 1013; Block Group 2: Block 2000, Block 2007, Block 2008, Block 2009; Tract 36: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1030, Block 1031, Block 1032, Block 1993, Block 1994, Block 1995, Block 1997, Block 1998, Block 1999; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2012, Block 2013, Block 2017, Block 2031, Block 2037, Block 2038, Block 2047, Block 2048, Block 2049, Block 2054, Block 2055, Block 2056, Block 2057, Block 2058, Block 2059, Block 2060, Block 2061, Block 2062, Block 2995, Block 2996, Block 2998, Block 2999; Block Group 4: Block 4000, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 4007, Block 4008, Block 4009, Block 4010, Block 4011, Block 4012, Block 4013, Block 4014, Block 4015, Block 4016, Block 4017, Block 4018, Block 4019, Block 4020, Block 4021, Block 4022, Block 4023, Block 4024, Block 4025, Block 4026, Block 4028, Block 4029, Block 4030, Block 4031, Block 4032, Block 4033, Block 4034, Block 4037, Block 4039, Block 4043, Block 4044, Block 4045, Block 4046, Block 4998; Tract 37: Block Group 2: Block 2021, Block 2022, Block 2023, Block 2025, Block 2026, Block 2043, Block 2995; Precinct Montibello, Precinct Spring Lake, Precinct Westarea: Tract 24: Block Group 1: Block 1008, Block 1009, Block 1015,

Block 1999; Block Group 3: Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010; Block Group 4: Block 4014, Block 4015, Block 4016, Block 4017.

District 43: Cumberland County: Precinct Cross Creek 01, Precinct Cross Creek 03: Tract 22: Block Group 1, Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2023, Block 2024; Tract 23: Block Group 1, Block Group 9: Block 9001, Block 9002, Block 9003, Block 9998; Precinct Cross Creek 05, Precinct Cross Creek 09, Precinct Cross Creek 13, Precinct Cross Creek 16, Precinct Cross Creek 19, Precinct Cross Creek 21, Precinct Cross Creek 23: Tract 25.01: Block Group 1: Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1011; Block Group 9: Block 9074, Block 9075; Precinct Cross Creek 26: Tract 33.04: Block Group 2: Block 2000, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3010; Precinct Cross Creek 33, Precinct Long Hill: Tract 25.04: Block Group 2: Block 2002, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028; Precinct Manchester: Tract 34: Block Group 2: Block 2021, Block 2022, Block 2023, Block 2051, Block 2052, Block 2069, Block 2070, Block 2071, Block 2072, Block 2073, Block 2075, Block 2076, Block 2077, Block 2078, Block 2079, Block 2080, Block 2081, Block 2082, Block 2083, Block 2084, Block 2085, Block 2086, Block 2091; Precinct Westarea: Tract 24: Block Group 1: Block 1007; Block Group 2: Block 2000, Block 2001; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003; Block Group 4: Block 4000, Block 4001, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 4007, Block 4008, Block 4009, Block 4010, Block 4011, Block 4012, Block 4013, Block 4018, Block 4019; Block Group 5: Block 5004, Block 5005, Block 5006, Block 5007, Block 5008, Block 5011; Tract 25.01: Block Group 1: Block 1000, Block 1001, Block 1008, Block 1009, Block 1010, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034; Block Group 9: Block 9000, Block 9001, Block 9002, Block 9003, Block 9004, Block 9006, Block 9010, Block 9011, Block 9016, Block 9017, Block 9018, Block 9019, Block 9020, Block 9024, Block 9044, Block 9076, Block 9077; Tract 25.02: Block Group 1: Block 1008, Block 1010, Block 1011, Block 1012, Block 1013, Block 1015, Block 1016, Block 1017, Block 1019, Block 1022, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1034, Block 1035, Block 1036, Block 1997; Block Group 3: Block 3007, Block 3010, Block 3011, Block 3012, Block 3997; Tract 25.03: Block Group 2: Block 2027, Block 2028, Block 2029, Block 2030; Tract 25.04: Block Group 3.

District 44: Cumberland County: Precinct Arran Hills, Precinct Brentwood, Precinct Cross Creek 03: Tract 20: Block Group 1: Block 1001, Block 1002, Block 1003; Tract 22: Block Group 2: Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030; Precinct Cross Creek 04, Precinct Cross Creek 06, Precinct Cross Creek 07, Precinct Cross Creek 08, Precinct Cross Creek 12: Tract 7: Block Group 3: Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014,



Block 3015, Block 3016, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3024, Block 3025, Block 3026, Block 3027, Block 3028, Block 3033, Block 3034, Block 3999; Block Group 4: Block 4008, Block 4009, Block 4010, Block 4011, Block 4012; Precinct Cross Creek 14, Precinct Cross Creek 15: Tract 6: Block Group 1: Block 1003, Block 1004, Block 1005, Block 1006, Block 1007; Block Group 2, Block Group 3: Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3011; Tract 18: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003; Block Group 2: Block 2000, Block 2001; Precinct Cross Creek 18: Tract 7: Block Group 4: Block 4007, Block 4014, Block 4015, Block 4016, Block 4017, Block 4018, Block 4023; Precinct Cross Creek 20, Precinct Cross Creek 24, Precinct Cross Creek 25, Precinct Cross Creek 26: Tract 20: Block Group 2: Block 2997, Block 2998, Block 2999; Tract 33.04: Block Group 3: Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3999; Tract 33.09: Block Group 1, Block Group 2: Block 2999; Precinct Cross Creek 27: Tract 20: Block Group 2: Block 2996; Tract 33.08: Block Group 1, Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2035, Block 2036, Block 2037, Block 2038, Block 2039, Block 2040, Block 2041, Block 2042, Block 2043; Tract 33.09: Block Group 2: Block 2998; Precinct Cross Creek 28: Tract 32.03: Block Group 1: Block 1001, Block 1002, Block 1051, Block 1052, Block 1053, Block 1054; Tract 33.02: Block Group 3: Block 3003, Block 3004, Block 3005, Block 3010, Block 3011, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017; Precinct Cross Creek 29, Precinct Cross Creek 30, Precinct Cross Creek 31, Precinct Cross Creek 34, Precinct Cumberland 1, Hope Mills 1, & Stoney Point: Tract 19.03: Block Group 1: Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010; Tract 32.03: Block Group 2: Block 2015, Block 2016, Block 2017; Tract 32.04: Block Group 4: Block 4012, Block 4013; Precinct Cumberland 2, Precinct Morganton Rd 2, Precinct Pearces Mill 4: Tract 17: Block Group 1: Block 1031.

District 45: Cumberland County: Precinct Black River, Precinct Cross Creek 02, Precinct Cross Creek 10, Precinct Cross Creek 11, Precinct Cross Creek 12: Tract 7: Block Group 3: Block 3017, Block 3998; Precinct Cross Creek 15: Tract 4: Block Group 1: Block 1044, Block 1045; Tract 6: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1008, Block 1009, Block 1999; Block Group 3: Block 3000, Block 3010; Block Group 4: Block 4000, Block 4001, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 4007, Block 4008, Block 4009, Block 4010, Block 4011, Block 4012, Block 4013, Block 4014, Block 4015, Block 4016, Block 4017, Block 4018, Block 4019, Block 4020, Block 4021, Block 4022, Block 4023, Block 4025, Block 4026, Block 4999; Precinct Cross Creek 18: Tract 4: Block Group 1: Block 1037, Block 1038, Block 1039, Block 1040, Block 1043; Tract 7: Block Group 2: Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026; Block Group 3: Block 3035, Block 3036; Block Group 4: Block 4013, Block 4035, Block 4036, Block 4038, Block 4039, Block 4040, Block 4041,

Block 4042, Block 4043, Block 4044, Block 4045, Block 4046, Block 4047, Block 4048; Precinct Cross Creek 22, Precinct Cross Creek 23: Tract 25.02: Block Group 2: Block 2001, Block 2002, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2013, Block 2998; Tract 25.03: Block Group 1, Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2033, Block 2999; Tract 25.04: Block Group 1: Block 1003, Block 1004, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011; Block Group 2: Block 2000, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2029, Block 2996, Block 2997, Block 2998, Block 2999; Tract 37: Block Group 1: Block 1096; Precinct Cumberland 1, Hope Mills 1, & Stoney Point: Tract 16.01: Block Group 2: Block 2001, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2025, Block 2026, Block 2027, Block 2998; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023; Tract 16.02: Block Group 1: Block 1061, Block 1998; Tract 19.01: Block Group 1: Block 1004, Block 1005, Block 1006, Block 1014; Tract 19.02: Block Group 1: Block 1059; Tract 31: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1058, Block 1059, Block 1060, Block 1061, Block 1062, Block 1063, Block 1066; Tract 32.01: Block Group 3: Block 3001; Precinct Cumberland 3, Precinct Eastover, Precinct Hope Mills 2: Tract 15: Block Group 2: Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2032, Block 2998, Block 2999; Tract 16.01: Block Group 1: Block 1000, Block 1001, Block 1027; Block Group 4: Block 4000, Block 4001, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 4013, Block 4014, Block 4015, Block 4016, Block 4017, Block 4018, Block 4019, Block 4020; Tract 30: Block Group 1: Block 1009, Block 1020, Block 1998, Block 1999; Precinct Hope Mills 3, Precinct Judson-Vander: Tract 14: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1030, Block 1031, Block 1032, Block 1035, Block 1036; Block Group 2: Block 2047, Block 2048; Block Group 3: Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022; Block Group 4: Block 4000, Block 4001, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 4007, Block 4008, Block 4009, Block 4010, Block 4011, Block 4012, Block 4013, Block 4014, Block 4015, Block 4016, Block 4017, Block 4018, Block 4019, Block 4020, Block 4021, Block 4022, Block 4023, Block 4033, Block 4034, Block 4036, Block 4044, Block 4045; Block Group 5: Block 5000, Block 5001, Block 5002, Block 5003, Block 5004, Block 5005, Block 5007, Block 5008, Block 5009, Block 5020, Block 5021, Block 5028, Block 5029, Block 5032, Block 5033, Block 5034, Block 5035, Block 5036, Block 5037, Block 5041,

Block 5042, Block 5043, Block 5044, Block 5045, Block 5046, Block 5047, Block 5995, Block 5996, Block 5997, Block 5998; Tract 27: Block Group 3: Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022; Block Group 4: Block 4024, Block 4025, Block 4026, Block 4027, Block 4028, Block 4029; Tract 28: Block Group 3: Block 3019, Block 3020; Precinct Linden, Precinct Long Hill: Tract 25.02: Block Group 1: Block 1001; Block Group 2: Block 2000, Block 2003, Block 2004, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2999; Block Group 3: Block 3014, Block 3999; Tract 25.04: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1005, Block 1006, Block 1012, Block 1013, Block 1014, Block 1015, Block 1999; Block Group 2: Block 2001, Block 2030; Tract 37: Block Group 1: Block 1086, Block 1090, Block 1091, Block 1092, Block 1093, Block 1094, Block 1095, Block 1097, Block 1098, Block 1099, Block 1100, Block 1101, Block 1996, Block 1997; Block Group 2: Block 2004, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2024, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2040, Block 2041, Block 2042, Block 2993, Block 2994, Block 2996, Block 2997; Precinct Pearces Mill 2, Precinct Pearces Mill 3, Precinct Pearces Mill 4: Tract 17: Block Group 1: Block 1018, Block 1019, Block 1022, Block 1026, Block 1027, Block 1028, Block 1030, Block 1032, Block 1033, Block 1036, Block 1037, Block 1038, Block 1039, Block 1040, Block 1041; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017; Block Group 3: Block 3030, Block 3031, Block 3032; Block Group 4: Block 4000, Block 4001, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 4023, Block 4024, Block 4025; Precinct Stedman: Tract 28: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006; Block Group 3: Block 3014, Block 3015, Block 3016, Block 3017, Block 3018; Precinct Wade.

District 46: Hoke County: Precinct Buchan, Precinct McCain: Tract 9701: Block Group 5: Block 5003, Block 5004, Block 5005; Tract 9702: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1045, Block 1994; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2031, Block 2032, Block 2033, Block 2034, Block 2035, Block 2036, Block 2037, Block 2038, Block 2039, Block 2040, Block 2045, Block 2087, Block 2088, Block 2089, Block 2090, Block 2091, Block 2092, Block 2093, Block 2094, Block 2095, Block 2096, Block 2097, Block 2098, Block 2099, Block 2100, Block 2101, Block 2102, Block 2103, Block 2104, Block 2105, Block 2106, Block 2107, Block 2108, Block 2109, Block 2110, Block 2111, Block 2112, Block 2113, Block 2114, Block 2115, Block 2116, Block 2117, Block 2118, Block 2119, Block 2120, Block 2121, Block 2122, Block 2123, Block 2124, Block 2125, Block 2126, Block 2127, Block 2128, Block 2129, Block 2130, Block 2131, Block 2132, Block 2133, Block 2134, Block 2135, Block 2136, Block 2137, Block 2138, Block 2139, Block 2140, Block 2141, Block 2142, Block 2143, Block 2144, Block 2145,

Block 2146, Block 2147, Block 2148, Block 2149, Block 2150; Block Group 3: Block 3002, Block 3003, Block 3004, Block 3005, Block 3047, Block 3050, Block 3051, Block 3052, Block 3053, Block 3054, Block 3055, Block 3056, Block 3057; Precinct precincts not defined, Precinct Puppy Creek, Precinct Rockfish, Precinct Stonewall: Tract 9704: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1030, Block 1034, Block 1041, Block 1042, Block 1043, Block 1044, Block 1045, Block 1046, Block 1047, Block 1048, Block 1049, Block 1050, Block 1051, Block 1052, Block 1053, Block 1054, Block 1055, Block 1056, Block 1057, Block 1058, Block 1059, Block 1060, Block 1061, Block 1062, Block 1063, Block 1064, Block 1065, Block 1066, Block 1067, Block 1077, Block 1078, Block 1079, Block 1095, Block 1998, Block 1999; Robeson County: Precinct Howellsville East, Precinct Howellsville West, Precinct Lumberton 3: Tract 9611: Block Group 1: Block 1003, Block 1004; Tract 9612: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1015, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1040; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2035; Block Group 3: Block 3000, Block 3001, Block 3002; Tract 9613: Block Group 5: Block 5001, Block 5002, Block 5003, Block 5004, Block 5005, Block 5006, Block 5007, Block 5008, Block 5009, Block 5010, Block 5011, Block 5012, Block 5013, Block 5014, Block 5015, Block 5016, Block 5017, Block 5020, Block 5021, Block 5022, Block 5023, Block 5024, Block 5025, Block 5026, Block 5027, Block 5028, Block 5029, Block 5030, Block 5031, Block 5032, Block 5033, Block 5034, Block 5038, Block 5039, Block 5040, Block 5041, Block 5042, Block 5043, Block 5044, Block 5045, Block 5046; Precinct Lumberton 4, Precinct Parkton, Precinct St Pauls North, Precinct St Pauls South, Precinct Wisharts; Scotland County: Precinct 03, Precinct 04: Tract 101: Block Group 5, Block Group 7; Tract 103: Block Group 1: Block 1057, Block 1058, Block 1059, Block 1060, Block 1061, Block 1062, Block 1063, Block 1064, Block 1065, Block 1066, Block 1067, Block 1068, Block 1069, Block 1070, Block 1071, Block 1072, Block 1073, Block 1074, Block 1091, Block 1092, Block 1093, Block 1094, Block 1095, Block 1096, Block 1097, Block 1098, Block 1099, Block 1101, Block 1995, Block 1996, Block 1997, Block 1998; Tract 105: Block Group 5: Block 5045, Block 5046, Block 5047, Block 5048, Block 5049, Block 5050, Block 5051, Block 5052, Block 5053, Block 5054, Block 5055, Block 5056, Block 5057, Block 5058, Block 5996; Precinct 05, Precinct 08: Tract 102: Block Group 1: Block 1005, Block 1009; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2018, Block 2019, Block 2023, Block 2024, Block 2025, Block 2026, Block 2084, Block 2085, Block 2086, Block 2087; Tract 105: Block Group 1: Block 1996, Block 1999; Tract 106: Block Group 3: Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3040, Block 3041, Block 3042, Block 3043, Block 3044, Block 3045, Block 3046, Block



Block 4996, Block 4997, Block 4998, Block 4999; Block Group 5: Block 5002, Block 5003, Block 5004, Block 5005, Block 5006, Block 5007, Block 5008, Block 5009, Block 5010, Block 5011, Block 5012, Block 5013, Block 5014, Block 5015, Block 5016, Block 5017, Block 5018, Block 5019, Block 5020, Block 5021, Block 5022, Block 5023, Block 5024, Block 5025, Block 5026, Block 5027, Block 5028, Block 5030, Block 5036, Block 5037, Block 5046, Block 5050, Block 5051, Block 5052, Block 5053, Block 5054, Block 5055, Block 5056, Block 5057, Block 5058, Block 5059, Block 5060, Block 5061, Block 5062, Block 5063, Block 5064, Block 5065, Block 5066, Block 5067, Block 5068, Block 5069, Block 5070, Block 5071, Block 5072, Block 5073, Block 5074, Block 5075, Block 5076, Block 5077, Block 5078, Block 5079, Block 5080, Block 5081, Block 5082, Block 5083, Block 5084, Block 5085, Block 5086, Block 5087, Block 5088, Block 5089, Block 5090, Block 5091, Block 5092, Block 5093, Block 5094, Block 5095, Block 5096, Block 5097, Block 5999; Precinct 09, Precinct 10.

District 47: Robeson County: Precinct Back Swamp: Tract 9605: Block Group 5: Block 5000, Block 5001, Block 5002, Block 5003, Block 5040; Tract 9608: Block Group 1: Block 1062, Block 1063, Block 1064, Block 1065, Block 1066, Block 1067, Block 1068, Block 1069, Block 1070, Block 1071, Block 1072, Block 1073, Block 1074, Block 1075, Block 1079, Block 1080, Block 1081, Block 1082, Block 1083, Block 1084, Block 1085, Block 1086, Block 1087, Block 1088, Block 1092, Block 1093, Block 1094, Block 1095, Block 1096, Block 1097, Block 1098, Block 1099, Block 1999; Block Group 4: Block 4042, Block 4043, Block 4044, Block 4045, Block 4046, Block 4087, Block 4088, Block 4089, Block 4090, Block 4091; Tract 9618: Block Group 1, Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2014, Block 2016, Block 2017, Block 2018, Block 2021, Block 2022, Block 2023, Block 2024, Block 2998, Block 2999; Block Group 4: Block 4000, Block 4001, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 4007, Block 4008, Block 4009, Block 4010, Block 4011, Block 4012, Block 4013, Block 4014, Block 4015, Block 4016, Block 4017, Block 4018, Block 4019, Block 4020, Block 4021, Block 4022, Block 4023, Block 4024, Block 4025, Block 4026, Block 4027, Block 4028, Block 4029, Block 4030, Block 4031, Block 4032, Block 4033, Block 4034, Block 4035, Block 4036, Block 4037, Block 4038, Block 4039, Block 4040, Block 4041, Block 4042, Block 4043, Block 4044, Block 4045, Block 4049, Block 4050, Block 4051; Precinct Burnt Swamp, Precinct Lumber Bridge, Precinct Lumberton 1, Precinct Lumberton 2: Tract 9609: Block Group 1: Block 1000; Tract 9610: Block Group 1, Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2035, Block 2036, Block 2037, Block 2038; Block Group 3: Block 3001, Block 3002; Tract 9612: Block Group 1: Block 1012, Block 1014; Tract 9613: Block Group 1: Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029; Block Group 4: Block 4008, Block 4009, Block 4010, Block 4011, Block 4012, Block 4013, Block 4014, Block 4015, Block 4016, Block 4017, Block 4018, Block 4019, Block 4020, Block 4021, Block 4022, Block 4023; Precinct Lumberton 7: Tract 9608: Block Group 1: Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block

1006, Block 1007, Block 1008, Block 1009, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038, Block 1041, Block 1042, Block 1043, Block 1044, Block 1045, Block 1046, Block 1047, Block 1048, Block 1049, Block 1050, Block 1051, Block 1054, Block 1055, Block 1056, Block 1057, Block 1058, Block 1059, Block 1060, Block 1061, Block 1076, Block 1077, Block 1078, Block 1089, Block 1090, Block 1091; Block Group 2: Block 2016; Block Group 3: Block 3010; Precinct Lumberton 8, Precinct Oxendine, Precinct Pembroke North, Precinct Pembroke South, Precinct Philadelphus, Precinct Prospect, Precinct Raft Swamp, Precinct Red Springs 1, Precinct Red Springs 2, Precinct Rennert, Precinct Saddletree, Precinct Shannon, Precinct Smyrna: Tract 9616: Block Group 1: Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012; Block Group 2: Block 2010; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3021, Block 3022, Block 3023, Block 3024, Block 3025, Block 3026, Block 3027, Block 3028, Block 3029, Block 3030, Block 3031, Block 3032, Block 3033; Precinct Thompson, Precinct Union.

District 48: Hoke County: Precinct Allendale, Precinct Antioch, Precinct Blue Springs, Precinct McCain: Tract 9702: Block Group 3: Block 3001, Block 3058, Block 3059, Block 3060, Block 3061, Block 3062; Precinct Raeford 1, Precinct Raeford 2, Precinct Raeford 3, Precinct Raeford 4, Precinct Raeford 5, Precinct Stonewall: Tract 9704: Block Group 1: Block 1023, Block 1024, Block 1026, Block 1027, Block 1028, Block 1029, Block 1031, Block 1035, Block 1036, Block 1037, Block 1038, Block 1039, Block 1040, Block 1068, Block 1069, Block 1070, Block 1071, Block 1072, Block 1073, Block 1074, Block 1075, Block 1076, Block 1080, Block 1081, Block 1082, Block 1083, Block 1084, Block 1085, Block 1087, Block 1088, Block 1089, Block 1090, Block 1091, Block 1092, Block 1093, Block 1094, Block 1997; Block Group 2: Block 2000; Robeson County: Precinct Alfordsville, Precinct Back Swamp: Tract 9618: Block Group 2: Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2015, Block 2019, Block 2020; Precinct Britts, Precinct Fairmont 1, Precinct Fairmont 2, Precinct Gaddys, Precinct Lumberton 2: Tract 9612: Block Group 1: Block 1010, Block 1011, Block 1013, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1024, Block 1025; Precinct Lumberton 3: Tract 9610: Block Group 3: Block 3000; Tract 9612: Block Group 1: Block 1022, Block 1023, Block 1026, Block 1027, Block 1028, Block 1038, Block 1039; Precinct Lumberton 5, Precinct Lumberton 6, Precinct Lumberton 7: Tract 9608: Block Group 1: Block 1000, Block 1031, Block 1032, Block 1033, Block 1039, Block 1040, Block 1052, Block 1053, Block 1100; Block Group 2: Block 2015; Block Group 3: Block 3009, Block 3011; Precinct Maxton, Precinct Orrum, Precinct Rowland, Precinct Smyrna: Tract 9608: Block Group 4: Block 4051, Block 4052, Block 4055, Block 4056, Block 4057, Block 4058, Block 4059, Block 4060, Block 4061, Block 4062, Block 4063, Block 4064, Block 4065, Block 4066, Block 4067, Block 4068, Block 4069, Block 4070, Block 4071, Block 4072; Tract 9616: Block Group 1: Block 1006; Block Group 2: Block 2011; Block Group 3: Block 3020, Block 3035, Block 3036, Block 3037, Block 3038; Precinct Sterlings, Precinct Whitehouse; Scotland County: Precinct 01, Precinct 02, Precinct 04: Tract 101: Block Group 4: Block 4013, Block

4014, Block 4015, Block 4016, Block 4017, Block 4027, Block 4028, Block 4029, Block 4030, Block 4031, Block 4032, Block 4033, Block 4034, Block 4035, Block 4036; Tract 103: Block Group 1: Block 1055, Block 1056; Precinct 06, Precinct 07, Precinct 08: Tract 102: Block Group 1: Block 1002, Block 1003, Block 1004, Block 1006, Block 1010; Tract 106: Block Group 5: Block 5000, Block 5001, Block 5029, Block 5031, Block 5032, Block 5033, Block 5034, Block 5035, Block 5038, Block 5039, Block 5040, Block 5041, Block 5042, Block 5043, Block 5044, Block 5045, Block 5047, Block 5048, Block 5049.

District 49: Franklin County, Halifax County: Precinct Butterwood: Tract 9908: Block Group 1: Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1016, Block 1017, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1999; Precinct Hollister: Tract 9908: Block Group 1: Block 1013, Block 1014, Block 1015, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1035; Block Group 2: Block 2012; Block Group 3: Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020; Block Group 4: Block 4001, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 4007, Block 4008, Block 4009, Block 4010, Block 4011, Block 4012, Block 4018, Block 4019; Precinct Littleton 1: Tract 9907: Block Group 2: Block 2014, Block 2015, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2993; Block Group 3: Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3022, Block 3023, Block 3024, Block 3025, Block 3026, Block 3027, Block 3028, Block 3038, Block 3039, Block 3040, Block 3041, Block 3042, Block 3043, Block 3044, Block 3045, Block 3046, Block 3047, Block 3048, Block 3049, Block 3050; Block Group 4: Block 4002, Block 4005, Block 4006, Block 4007, Block 4008, Block 4009, Block 4010, Block 4011, Block 4012, Block 4013, Block 4014, Block 4015, Block 4016, Block 4017, Block 4018, Block 4019, Block 4020, Block 4021; Tract 9908: Block Group 1: Block 1001, Block 1002, Block 1003; Precinct Littleton 2, Precinct Roanoke Rapids 01, Precinct Roanoke Rapids 02, Precinct Roanoke Rapids 03, Precinct Roanoke Rapids 04, Precinct Roanoke Rapids 05, Precinct Roanoke Rapids 06, Precinct Roanoke Rapids 11: Tract 9903: Block Group 1: Block 1999; Tract 9905: Block Group 1: Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1009, Block 1010, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1039, Block 1044, Block 1999; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2006, Block 2997, Block 2998, Block 2999; Tract 9907: Block Group 2: Block 2996; Nash County: Precinct Griffins: Tract 109: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1032, Block 1033, Block 1037, Block 1040, Block 1041, Block 1045, Block 1046.



District 50: Caswell County, Orange County: Precinct Caldwell, Precinct Cameron Park, Precinct Carr, Precinct Cedar Grove, Precinct Cheeks, Precinct Coles Store, Precinct Efland, Precinct Eno, Precinct Grady Brown, Precinct Hillsborough, Precinct Hillsborough West, Precinct Orange Grove, Precinct St Marys, Precinct Tolars.

District 51: Harnett County: Precinct Barbeque, Precinct Buckhorn, Precinct Johnsonville, Precinct U.L.R. 2; Lee County.

District 52: Moore County: Precinct Aberdeen East, Precinct Aberdeen West, Precinct Bensalem, Precinct Carthage: Tract 9501: Block Group 2: Block 2043, Block 2044, Block 2045, Block 2046, Block 2047; Block Group 3: Block 3022, Block 3023, Block 3024, Block 3029, Block 3033, Block 3034, Block 3035, Block 3037, Block 3038, Block 3039, Block 3040, Block 3041; Tract 9503: Block Group 1: Block 1038, Block 1039; Block Group 2: Block 2010; Block Group 3: Block 3001, Block 3002; Tract 9504: Block Group 1: Block 1048, Block 1049, Block 1050, Block 1051; Block Group 2: Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2036, Block 2037, Block 2038; Block Group 3, Block Group 4: Block 4000, Block 4001, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 4007, Block 4008, Block 4009, Block 4010, Block 4011, Block 4012, Block 4013, Block 4014, Block 4015, Block 4016, Block 4017, Block 4018, Block 4019, Block 4020, Block 4021, Block 4022, Block 4023, Block 4024, Block 4025, Block 4026, Block 4033, Block 4034, Block 4035, Block 4036, Block 4037, Block 4038, Block 4039, Block 4040, Block 4041, Block 4042, Block 4043, Block 4999; Block Group 5: Block 5000, Block 5001, Block 5002, Block 5003, Block 5004, Block 5005, Block 5006, Block 5007, Block 5008, Block 5009, Block 5010, Block 5011, Block 5012, Block 5013, Block 5014, Block 5015, Block 5016, Block 5020, Block 5021, Block 5027, Block 5028, Block 5031, Block 5032, Block 5033, Block 5034, Block 5035, Block 5036, Block 5039, Block 5040, Block 5041, Block 5042, Block 5072, Block 5073, Block 5074; Block Group 6: Block 6002, Block 6003, Block 6004, Block 6005, Block 6006, Block 6007, Block 6008, Block 6009, Block 6010, Block 6011, Block 6012, Block 6013, Block 6014, Block 6015, Block 6016, Block 6017, Block 6018, Block 6019, Block 6020, Block 6021, Block 6022, Block 6023, Block 6024, Block 6025, Block 6026, Block 6027, Block 6028, Block 6029, Block 6030, Block 6031, Block 6032, Block 6033, Block 6034, Block 6035, Block 6036, Block 6037, Block 6038, Block 6039, Block 6040, Block 6041, Block 6042, Block 6043, Block 6044, Block 6045, Block 6046, Block 6047, Block 6048, Block 6049, Block 6050, Block 6051, Block 6052, Block 6053, Block 6054, Block 6055, Block 6056, Block 6057, Block 6058, Block 6059, Block 6060, Block 6061, Block 6065, Block 6066, Block 6073, Block 6074, Block 6075, Block 6076, Block 6080, Block 6081, Block 6082, Block 6083, Block 6084, Block 6085; Tract 9505.01: Block Group 1: Block 1015, Block 1016, Block 1017; Tract 9505.02: Block Group 2: Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2019, Block 2020, Block 2021, Block 2995; Precinct Deep River/High Falls/Ritter, Precinct Eastwood, Precinct Eureka, Precinct Knollwood, Precinct Little River, Precinct Pinebluff, Precinct Pinedene, Precinct Pinehurst A, Precinct Pinehurst B, Precinct Pinehurst C, Precinct Robbins, Precinct Seven Lakes, Precinct Southern Pines North,

Precinct Southern Pines South, Precinct Taylortown, Precinct Vass, Precinct West End, Precinct Westmoore.

District 53: Harnett County: Precinct Anderson Creek, Precinct Averasboro 1, Precinct Averasboro 2, Precinct Averasboro 3, Precinct Averasboro 4, Precinct Averasboro 5, Precinct Black River, Precinct Duke 1, Precinct Duke 2, Precinct Duke 3, Precinct Grove 1, Precinct Grove 2, Precinct Hectors Creek, Precinct Lillington, Precinct Neils Creek 1, Precinct Neils Creek 2, Precinct Stewarts Creek, Precinct U.L.R. 1.

District 54: Chatham County, Moore County: Precinct Cameron, Precinct Carthage: Tract 9501: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1050, Block 1051, Block 1052, Block 1053, Block 1054, Block 1055, Block 1056, Block 1057, Block 1058; Block Group 2: Block 2000, Block 2001, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015; Tract 9504: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1020, Block 1028, Block 1029, Block 1030, Block 1032, Block 1033, Block 1034, Block 1036, Block 1037, Block 1038, Block 1039, Block 1040, Block 1041, Block 1042, Block 1043, Block 1044, Block 1047, Block 1999; Block Group 2: Block 2035; Block Group 6: Block 6001, Block 6064; Orange County: Precinct Damascus, Precinct Dogwood Acres, Precinct Kings Mill, Precinct St John, Precinct White Cross.

District 55: Durham County: Precinct 20, Precinct 21, Precinct 22, Precinct 23, Precinct 25, Precinct 26, Precinct 28, Precinct 45: Tract 16.01: Block Group 1: Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027; Block Group 3: Block 3011, Block 3012, Block 3021; Tract 17.08: Block Group 1: Block 1003; Person County.

District 56: Orange County: Precinct Battle Park, Precinct Booker Creek, Precinct Carrboro, Precinct Carrboro North, Precinct Cedar Falls, Precinct Coker Hills, Precinct Colonial Heights, Precinct Country Club, Precinct Eastside, Precinct Estes Hills, Precinct Franklin East, Precinct Glenwood, Precinct Greenwood, Precinct Lincoln, Precinct Lions Club, Precinct Mason Farm, Precinct Northside, Precinct Owasa, Precinct Patterson, Precinct Ridgetfield, Precinct Town Hall, Precinct Weaver Dairy, Precinct Weaver Dairy Satellite, Precinct Westwood.

District 57: Guilford County: Precinct Friendship 1, Precinct Friendship 2: Tract 164.03: Block Group 1: Block 1007, Block 1008, Block 1056; Tract 164.04: Block Group 1: Block 1000; Tract 165.03: Block Group 1: Block 1002, Block 1003, Block 1004, Block 1005; Precinct GB 15, Precinct GB 16, Precinct GB 33, Precinct GB 34, Precinct GB 35, Precinct GB 36, Precinct GB 37, Precinct GB 38, Precinct GB 39: Tract 125.06: Block Group 1: Block 1065, Block 1067; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3007; Precinct GB 43, Precinct GB 47: Tract 116.01: Block Group 1: Block 1000, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1023, Block 1024, Block 1025, Block 1026, Block 1029; Block Group 2: Block 2000, Block 2001, Block 2002,

Block 2003, Block 2004, Block 2013, Block 2014, Block 2020; Precinct GB 48, Precinct GB 49, Precinct GB 50, Precinct GB 51, Precinct GB 56, Precinct GB 58, Precinct GB 60, Precinct GB 61, Precinct GB 62, Precinct GB 63, Precinct GB 64; Tract 160.04: Block Group 4: Block 4038, Block 4044, Block 4045, Block 4046, Block 4047, Block 4048, Block 4049, Block 4050, Block 4051, Block 4052, Block 4053, Block 4054, Block 4055, Block 4056, Block 4057, Block 4058, Block 4059, Block 4060, Block 4061, Block 4062, Block 4067; Block Group 5: Block 5000, Block 5001, Block 5002, Block 5003, Block 5004, Block 5005, Block 5006, Block 5007, Block 5012, Block 5013, Block 5014, Block 5015, Block 5016; Tract 162.02: Block Group 1: Block 1000, Block 1001, Block 1036, Block 1037, Block 1038, Block 1039, Block 1040, Block 1133, Block 1147, Block 1148; Tract 164.03: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1010, Block 1011, Block 1012, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1029; Tract 165.03: Block Group 1: Block 1000, Block 1001, Block 1010; Precinct GB 65, Precinct GB 66, Precinct HP: Tract 164.03: Block Group 1: Block 1009, Block 1031; Precinct Jamestown 3: Tract 126.09: Block Group 2: Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2025, Block 2029, Block 2030, Block 2033, Block 2045, Block 2047; Tract 165.02: Block Group 1: Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1010, Block 1011, Block 1012, Block 1013, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029; Tract 165.04: Block Group 1: Block 1058, Block 1064.

District 58: Guilford County: Precinct Clay North 1, Precinct Clay North 2, Precinct Clay South, Precinct Fentress 1, Precinct Fentress 2, Precinct GB 03, Precinct GB 04, Precinct GB 05, Precinct GB 06, Precinct GB 46: Tract 108.01: Block Group 1: Block 1067, Block 1073, Block 1079; Tract 113: Block Group 2: Block 2014, Block 2017, Block 2018; Tract 114: Block Group 1: Block 1001, Block 1002, Block 1004, Block 1005, Block 1006, Block 1007, Block 1009, Block 1010, Block 1011, Block 1012, Block 1016; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003; Precinct GB 52: Tract 113: Block Group 2: Block 2015, Block 2016, Block 2019, Block 2020, Block 2021; Precinct GB 53: Tract 128.04: Block Group 1: Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1014, Block 1027; Precinct GB 67, Precinct GB 68, Precinct GB 69, Precinct GB 70, Precinct GB 71, Precinct GB 72, Precinct GB 73, Precinct GB 74, Precinct GB 75, Precinct Gibsonville, Precinct Greene, Precinct Jefferson 1, Precinct Jefferson 2, Precinct Jefferson 3, Precinct Jefferson 4, Precinct Pleasant Garden 1: Tract 168: Block Group 4: Block 4000, Block 4001, Block 4002, Block 4003, Block 4004, Block 4005; Tract 169: Block Group 1: Block 1004, Block 1005, Block 1006, Block 1007; Precinct Rock Creek 1, Precinct Rock Creek 2, Precinct Washington South.

District 59: Guilford County: Precinct GB 01, Precinct GB 02, Precinct GB 07, Precinct GB 08, Precinct GB 09, Precinct GB 10, Precinct GB 11, Precinct GB 12, Precinct GB 13, Precinct GB 14, Precinct GB 17, Precinct GB 18, Precinct GB 19, Precinct GB 20, Precinct GB 21, Precinct GB 22, Precinct GB 23, Precinct GB 26, Precinct GB 31, Precinct GB 44, Precinct GB 45, Precinct Madison North, Precinct Madison South, Precinct Monroe 1, Precinct Monroe 2, Precinct Monroe 3, Precinct Washington North.

District 60: Guilford County: Precinct GB 46: Tract 113: Block Group 2: Block 2013; Tract 114: Block Group 1: Block 1008, Block 1015, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021; Block Group 2, Block Group 3: Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011; Block Group 4, Block Group 5: Block 5000, Block 5001, Block 5002, Block 5003, Block 5004, Block 5005; Block Group 6; Tract 115: Block Group 1: Block 1000, Block 1001, Block 1012, Block 1013, Block 1014; Block Group 2: Block 2000, Block 2001; Precinct GB 47: Tract 115: Block Group 1: Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030; Block Group 2: Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015; Block Group 3, Block Group 4; Tract 126.04: Block Group 3: Block 3008, Block 3015, Block 3016; Precinct GB 52: Tract 114: Block Group 5: Block 5006, Block 5007, Block 5008; Tract 126.04: Block Group 1, Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3017; Precinct GB 53: Tract 128.04: Block Group 1: Block 1004, Block 1005, Block 1006, Block 1012, Block 1013, Block 1026, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034; Block Group 2; Tract 168: Block Group 2: Block 2012, Block 2015, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2035, Block 2036, Block 2037, Block 2038, Block 2039, Block 2047; Precinct GB 54, Precinct GB 55, Precinct GB 57, Precinct GB 59, Precinct HP 02: Tract 140: Block Group 1: Block 1015, Block 1016, Block 1021, Block 1022, Block 1023; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2032, Block 2033, Block 2034; Precinct HP 03: Tract 142: Block Group 2: Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3021, Block 3022, Block 3023, Block 3027, Block 3028, Block 3029, Block 3030, Block 3031, Block 3032, Block 3033, Block 3034, Block 3035, Block 3036, Block 3037, Block 3038; Tract 143: Block Group 1: Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1017, Block 1018; Block Group 2: Block 2006; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3033, Block 3034, Block 3035; Block Group 4: Block 4000, Block 4001, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 4007, Block 4008, Block 4009, Block 4010, Block 4011, Block 4012, Block 4013, Block 4014, Block 4015, Block 4016, Block 4017, Block 4018, Block 4019, Block 4020, Block 4021, Block 4022, Block 4023, Block 4024, Block 4025, Block 4026, Block 4027, Block 4028, Block 4029, Block 4030, Block 4031, Block 4032, Block 4033, Block 4034, Block 4035; Tract 146: Block Group 1: Block 1055, Block 1056, Block 1057, Block 1060, Block 1061, Block 1062, Block 1063, Block 1064, Block 1076, Block 1077, Block 1078, Block 1079, Block 1080; Precinct HP 04: Tract 145.02: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1008; Tract 166: Block Group 1: Block 1050, Block 1051, Block 1052, Block 1053, Block 1054, Block 1055; Precinct HP 05, Precinct HP 07, Precinct

HP 08, Precinct HP 09, Precinct HP 10: Tract 139: Block Group 1: Block 1000; Tract 144.06: Block Group 1: Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031; Block Group 2; Tract 145.03: Block Group 1: Block 1056; Precinct HP 11, Precinct HP 12: Tract 136.02: Block Group 1: Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017; Block Group 2: Block 2000, Block 2001, Block 2003, Block 2004, Block 2010, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018; Block Group 3: Block 3018; Tract 138: Block Group 4: Block 4006, Block 4007, Block 4010, Block 4011, Block 4012, Block 4018, Block 4019, Block 4020, Block 4021, Block 4022, Block 4023; Tract 146: Block Group 1: Block 1000, Block 1001, Block 1035, Block 1036, Block 1037, Block 1038; Precinct HP 17: Tract 136.02: Block Group 1: Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010; Block Group 4: Block 4000, Block 4011, Block 4012, Block 4013; Precinct HP 18: Tract 144.05: Block Group 2: Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2019, Block 2020; Block Group 3: Block 3003, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3014, Block 3015; Precinct HP 19A: Tract 144.05: Block Group 2: Block 2011, Block 2015, Block 2016, Block 2017, Block 2018, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030; Precinct Jamestown 5: Tract 145.02: Block Group 1: Block 1005, Block 1009, Block 1999; Tract 164.02: Block Group 2: Block 2072, Block 2073, Block 2079, Block 2080, Block 2086; Tract 166: Block Group 1: Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1034, Block 1037, Block 1038, Block 1039, Block 1042, Block 1043, Block 1044, Block 1045, Block 1046, Block 1047, Block 1048, Block 1049, Block 1056, Block 1057, Block 1058, Block 1059, Block 1060, Block 1061, Block 1062, Block 1063, Block 1064, Block 1065, Block 1067, Block 1068, Block 1069, Block 1070, Block 1071, Block 1102, Block 1103, Block 1104, Block 1105, Block 1106, Block 1107, Block 1108, Block 1109, Block 1110, Block 1112, Block 1113, Block 1114, Block 1115, Block 1116, Block 1117, Block 1118, Block 1119, Block 1120, Block 1121, Block 1122, Block 1123, Block 1124; Tract 167: Block Group 5: Block 5040, Block 5041; Precinct Pleasant Garden 1: Tract 168: Block Group 1: Block 1013, Block 1014, Block 1015, Block 1017, Block 1018; Block Group 2: Block 2060, Block 2061, Block 2063; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3023, Block 3998; Block Group 4: Block 4006, Block 4007, Block 4008, Block 4009, Block 4010, Block 4011, Block 4012, Block 4013, Block 4014, Block 4015, Block 4016, Block 4017, Block 4018, Block 4019, Block 4020, Block 4021, Block 4022, Block 4023, Block 4024, Block 4025, Block 4026; Precinct Pleasant Garden 2, Precinct Sumner 1: Tract 165.02: Block Group 2: Block 2002, Block 2003; Tract 167: Block Group 1: Block 1003, Block 1004, Block 1010; Block Group 2: Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2016, Block 2017, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2028; Precinct Sumner 2, Precinct Sumner 3: Tract 167: Block Group 1: Block 1011, Block 1012, Block 1013; Block Group 2: Block 2026, Block 2027, Block 2035, Block 2036, Block 2037, Block 2038; Block

Group 3: Block 3010, Block 3011; Block Group 4: Block 4000, Block 4001, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 4007, Block 4011, Block 4012, Block 4013, Block 4014, Block 4015, Block 4016, Block 4017; Precinct Sumner 4.

District 61: Guilford County: Precinct Deep River South: Tract 162.02: Block Group 1: Block 1015, Block 1016, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1044, Block 1046, Block 1047, Block 1048, Block 1049, Block 1050, Block 1055, Block 1056, Block 1075, Block 1076, Block 1079, Block 1087, Block 1088, Block 1092, Block 1093, Block 1094, Block 1096, Block 1097, Block 1098, Block 1099, Block 1100, Block 1101, Block 1108, Block 1115, Block 1118, Block 1119, Block 1121, Block 1122, Block 1123, Block 1124, Block 1125, Block 1126, Block 1127, Block 1128, Block 1134, Block 1135, Block 1136, Block 1137, Block 1138, Block 1139, Block 1140, Block 1141, Block 1142, Block 1145, Block 1146; Tract 163.01: Block Group 2: Block 2012; Precinct Friendship 2: Tract 164.03: Block Group 1: Block 1053, Block 1054, Block 1055, Block 1057; Tract 164.04: Block Group 1: Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1070, Block 1071, Block 1072, Block 1073, Block 1074, Block 1075, Block 1076, Block 1077, Block 1078, Block 1079, Block 1080, Block 1105, Block 1107, Block 1108, Block 1109, Block 1110, Block 1111, Block 1112, Block 1113, Block 1114, Block 1115, Block 1116, Block 1117; Precinct HP: Tract 162.02: Block Group 1: Block 1041, Block 1042, Block 1043, Block 1045; Tract 163.02: Block Group 2: Block 2002, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2014, Block 2015, Block 2016, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2035, Block 2036, Block 2037, Block 2038, Block 2039, Block 2040, Block 2041, Block 2042, Block 2043, Block 2044, Block 2045, Block 2046, Block 2047, Block 2048, Block 2049, Block 2050, Block 2051, Block 2052, Block 2054, Block 2055, Block 2056, Block 2057, Block 2997, Block 2998, Block 2999; Tract 164.02: Block Group 1: Block 1022, Block 1024, Block 1025, Block 1026, Block 1061, Block 1062, Block 1063, Block 1069, Block 1070, Block 1071, Block 1072, Block 1075, Block 1076, Block 1077, Block 1078, Block 1079, Block 1080, Block 1081, Block 1082, Block 1083, Block 1084, Block 1085, Block 1086, Block 1087, Block 1088, Block 1089, Block 1999; Tract 164.03: Block Group 1: Block 1013, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1030, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038, Block 1039, Block 1040, Block 1041, Block 1042, Block 1043, Block 1044, Block 1045, Block 1046, Block 1047, Block 1048, Block 1049, Block 1050, Block 1051, Block 1052, Block 1058, Block 1059, Block 1060, Block 1061, Block 1062, Block 1063, Block 1064, Block 1065, Block 1066, Block 1067, Block 1068, Block 1069, Block 1070, Block 1071, Block 1072, Block 1073, Block 1074, Block 1075, Block 1076, Block 1077, Block 1078, Block 1079, Block 1080, Block 1081, Block 1082, Block 1083, Block 1084, Block 1085, Block 1086, Block 1087, Block 1088, Block 1089, Block 1090, Block 1091, Block 1092, Block 1093, Block 1094, Block 1095, Block 1096, Block 1998, Block 1999; Tract 164.04: Block Group 1: Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block

1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038, Block 1039, Block 1040, Block 1041, Block 1042, Block 1043, Block 1044, Block 1045, Block 1046, Block 1047, Block 1048, Block 1049, Block 1050, Block 1051, Block 1052, Block 1053, Block 1054, Block 1055, Block 1056, Block 1057, Block 1058, Block 1059, Block 1060, Block 1061, Block 1062, Block 1063, Block 1064, Block 1065, Block 1066, Block 1067, Block 1068, Block 1098, Block 1099, Block 1100, Block 1101, Block 1102, Block 1103, Block 1104, Block 1106, Block 1999; Precinct HP 01, Precinct HP 02: Tract 140: Block Group 1: Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1017, Block 1018, Block 1019, Block 1020, Block 1024, Block 1025, Block 1026; Block Group 2: Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2030, Block 2031, Block 2035, Block 2036, Block 2061, Block 2062; Tract 144.07: Block Group 2: Block 2030, Block 2032, Block 2033, Block 2034, Block 2035, Block 2036, Block 2037, Block 2038, Block 2039, Block 2040, Block 2041, Block 2042, Block 2043, Block 2044, Block 2045, Block 2046, Block 2047, Block 2048, Block 2049, Block 2050, Block 2051; Precinct HP 03: Tract 143: Block Group 1: Block 1000, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1019, Block 1020; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031; Block Group 3: Block 3008, Block 3009, Block 3010, Block 3011, Block 3020, Block 3021, Block 3022, Block 3023, Block 3031, Block 3032, Block 3036, Block 3037, Block 3038, Block 3039; Block Group 4: Block 4039, Block 4040, Block 4041; Tract 145.01: Block Group 1: Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1034, Block 1035; Precinct HP 04: Tract 145.01: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1045, Block 1046, Block 1047, Block 1048, Block 1049, Block 1050, Block 1051, Block 1052, Block 1053, Block 1054, Block 1055, Block 1056, Block 1057; Tract 145.02: Block Group 1: Block 1006, Block 1007, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1027, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1037, Block 1038, Block 1041, Block 1047, Block 1049, Block 1051, Block 1052, Block 1053, Block 1060, Block 1062, Block 1063; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2035, Block 2036, Block 2037, Block 2038, Block 2039, Block 2040, Block 2041, Block 2042, Block 2043, Block 2044, Block 2045, Block 2046,

Block 2047, Block 2048; Tract 166: Block Group 1: Block 1082, Block 1083, Block 1084, Block 1085; Precinct HP 06, Precinct HP 10: Tract 144.06: Block Group 1: Block 1000, Block 1001, Block 1011; Precinct HP 12: Tract 136.02: Block Group 2: Block 2002, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2011, Block 2019, Block 2020; Block Group 3: Block 3011, Block 3012, Block 3013, Block 3015, Block 3016, Block 3017, Block 3022, Block 3023, Block 3024, Block 3025, Block 3026, Block 3027, Block 3028, Block 3029, Block 3030, Block 3031, Block 3032; Tract 138: Block Group 4: Block 4008, Block 4009; Tract 146: Block Group 1: Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1033, Block 1034, Block 1047, Block 1048, Block 1049; Precinct HP 13, Precinct HP 14, Precinct HP 15, Precinct HP 16, Precinct HP 17: Tract 136.02: Block Group 1: Block 1000; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3014, Block 3019, Block 3020, Block 3021; Block Group 4: Block 4001, Block 4006, Block 4007, Block 4009, Block 4010; Precinct HP 18: Tract 144.05: Block Group 2: Block 2003; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3004, Block 3005, Block 3006, Block 3013; Precinct HP 19A: Tract 144.05: Block Group 2: Block 2012, Block 2013, Block 2014; Precinct HP 19B, Precinct HP 20A, Precinct HP 20B, Precinct HP 21, Precinct HP 22, Precinct HP 23, Precinct HP 24, Precinct HP 25, Precinct HP 26, Precinct HP 27, Precinct Jamestown 1, Precinct Jamestown 2, Precinct Jamestown 3: Tract 126.09: Block Group 2: Block 2024, Block 2026, Block 2027, Block 2028, Block 2031, Block 2032, Block 2034, Block 2035, Block 2036, Block 2037, Block 2038, Block 2039, Block 2040, Block 2041, Block 2042, Block 2043, Block 2044, Block 2998; Tract 165.02: Block Group 1: Block 1015, Block 1016, Block 1017, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038, Block 1039, Block 1040, Block 1041, Block 1042, Block 1043, Block 1044, Block 1045, Block 1046, Block 1047, Block 1048, Block 1049, Block 1050, Block 1051, Block 1052, Block 1053, Block 1054, Block 1055, Block 1056; Block Group 3: Block 3009, Block 3011, Block 3012, Block 3013; Tract 165.04: Block Group 1: Block 1065; Precinct Jamestown 4, Precinct Jamestown 5: Tract 145.02: Block Group 1: Block 1026, Block 1028, Block 1036, Block 1039, Block 1040, Block 1042, Block 1043, Block 1044, Block 1045, Block 1046, Block 1048, Block 1050, Block 1054, Block 1055, Block 1056, Block 1057, Block 1058, Block 1059, Block 1061; Block Group 2: Block 2025; Tract 166: Block Group 1: Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1013, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1035, Block 1036, Block 1040, Block 1041, Block 1066, Block 1072, Block 1073, Block 1074, Block 1075, Block 1076, Block 1077, Block 1078, Block 1079, Block 1080, Block 1081, Block 1086, Block 1087, Block 1088, Block 1089, Block 1090, Block 1091, Block 1092, Block 1093, Block 1094, Block 1095, Block 1096, Block 1097, Block 1098, Block 1099, Block 1100, Block 1101; Tract 167: Block Group 1: Block 1039; Precinct Sumner 1: Tract 165.02: Block Group 2: Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2046, Block 2047, Block 2048, Block 2049, Block 2050, Block 2057, Block 2075; Tract 167: Block Group 1: Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1015, Block 1016, Block 1017, Block 1021, Block 1022, Block



1023; Precinct Sumner 3: Tract 167: Block Group 1: Block 1014; Block Group 5: Block 5013, Block 5014, Block 5015, Block 5016, Block 5017, Block 5018, Block 5019, Block 5020.

District 62: Guilford County: Precinct Center Grove 1, Precinct Center Grove 2, Precinct Center Grove 3, Precinct Center Grove North, Precinct Deep River North, Precinct Deep River South: Tract 162.02: Block Group 1: Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1143, Block 1144; Precinct Friendship 3, Precinct Friendship 4, Precinct Friendship 5, Precinct GB 24, Precinct GB 25, Precinct GB 27, Precinct GB 28, Precinct GB 29, Precinct GB 30, Precinct GB 32, Precinct GB 39: Tract 161.01: Block Group 1: Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016; Precinct GB 40A, Precinct GB 40B, Precinct GB 41, Precinct GB 42, Precinct GB 64: Tract 160.04: Block Group 4: Block 4063, Block 4064, Block 4065, Block 4066, Block 4068, Block 4069, Block 4071; Tract 162.01: Block Group 2: Block 2043, Block 2058, Block 2059, Block 2060, Block 2062, Block 2063, Block 2064, Block 2065, Block 2066, Block 2067, Block 2068, Block 2069, Block 2070, Block 2077, Block 2078; Tract 162.02: Block Group 1: Block 1002, Block 1003; Precinct Oak Ridge 1, Precinct Oak Ridge 2, Precinct Stokesdale, Precinct Summerfield 1, Precinct Summerfield 2, Precinct Summerfield 3, Precinct Summerfield 4.

District 63: Alamance County: Precinct Burlington 04, Precinct Burlington 05, Precinct Burlington 07, Precinct Burlington 08, Precinct Burlington 10, Precinct Burlington East, Precinct Burlington North, Precinct Burlington South, Precinct Burlington West, Precinct Graham 3, Precinct Graham East, Precinct Graham North, Precinct Graham West, Precinct Haw River, Precinct Melville North, Precinct Melville South, Precinct Pleasant Grove.

District 64: Alamance County: Precinct Albright, Precinct Boone 5, Precinct Boone Central, Precinct Boone North, Precinct Boone South, Precinct Boone West, Precinct Burlington 06, Precinct Burlington 09, Precinct Coble, Precinct Faucette, Precinct Graham 4, Precinct Graham South, Precinct Melville 3, Precinct Morton, Precinct Newlin North, Precinct Newlin South, Precinct Patterson, Precinct Thompson North, Precinct Thompson South.

District 65: Rockingham County: Precinct Bethlehem, Precinct Central Area, Precinct Draper, Precinct Ironworks: Tract 415: Block Group 5: Block 5004, Block 5005, Block 5006, Block 5009, Block 5010, Block 5997; Tract 416: Block Group 3: Block 3006, Block 3007, Block 3008, Block 3009, Block 3012, Block 3013, Block 3014, Block 3015, Block 3020, Block 3021, Block 3022, Block 3023, Block 3024, Block 3025, Block 3026, Block 3027, Block 3028, Block 3029, Block 3041, Block 3992, Block 3993, Block 3999; Precinct Leaksville 1, Precinct Leaksville 2, Precinct Leaksville 3, Precinct Mayfield, Precinct Oregon Hill, Precinct Price, Precinct Reidsville 1, Precinct Reidsville 2, Precinct Reidsville 3, Precinct Reidsville 4, Precinct Reidsville 5, Precinct Reidsville 6, Precinct Ruffin, Precinct Shiloh, Precinct Simpsonville: Tract 411: Block Group 5: Block 5000, Block 5001, Block 5018, Block 5019, Block 5020, Block 5021, Block 5022, Block 5023, Block 5024; Tract 412: Block Group 1: Block 1024; Tract 415: Block Group 5: Block 5000, Block 5001; Tract 416: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034,

Block 1039; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2036, Block 2037, Block 2038, Block 2039, Block 2040, Block 2998, Block 2999; Precinct Spray 1, Precinct Stoneville, Precinct Wentworth, Precinct Williamsburg.

District 66: Montgomery County: Precinct Biscoe, Precinct Candor, Precinct Cheeks Creek, Precinct Little River, Precinct Mt Gilead, Precinct Ophir, Precinct Pee Dee, Precinct Rocky Springs, Precinct Star, Precinct Troy 1, Precinct Troy 2, Precinct Uwharrie: Tract 9603: Block Group 1: Block 1160, Block 1165, Block 1166; Block Group 2: Block 2003, Block 2004, Block 2006; Precinct Wadeville; Richmond County.

District 67: Montgomery County: Precinct Eldorado, Precinct Uwharrie: Tract 9602: Block Group 4: Block 4058; Tract 9603: Block Group 2: Block 2000, Block 2001, Block 2002, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2035, Block 2036, Block 2037, Block 2038, Block 2039, Block 2040, Block 2041, Block 2042, Block 2043, Block 2044, Block 2045, Block 2046, Block 2047, Block 2048, Block 2049, Block 2050, Block 2051, Block 2052, Block 2053, Block 2054, Block 2055, Block 2056, Block 2057, Block 2058, Block 2059, Block 2060, Block 2061, Block 2062, Block 2063, Block 2064, Block 2065, Block 2066, Block 2067, Block 2068, Block 2069, Block 2070, Block 2071, Block 2072, Block 2073, Block 2074, Block 2075, Block 2076, Block 2077, Block 2078, Block 2079, Block 2080, Block 2081, Block 2082, Block 2083, Block 2084, Block 2085, Block 2086, Block 2087, Block 2088, Block 2089, Block 2090, Block 2091, Block 2092, Block 2998, Block 2999; Tract 9604: Block Group 4: Block 4033, Block 4997; Stanly County, Union County: Precinct 11, Precinct 12: Tract 202.01: Block Group 1: Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038, Block 1039, Block 1040, Block 1041, Block 1042, Block 1043; Block Group 3: Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014; Block Group 4: Block 4000, Block 4001, Block 4002, Block 4003, Block 4004, Block 4007, Block 4008, Block 4009, Block 4010, Block 4011, Block 4012, Block 4013, Block 4014, Block 4015, Block 4016, Block 4025, Block 4026, Block 4027; Precinct 13: Tract 202.01: Block Group 4: Block 4005, Block 4006, Block 4017, Block 4018, Block 4019, Block 4020, Block 4021, Block 4022, Block 4023; Precinct 32.

District 68: Union County: Precinct 05, Precinct 06, Precinct 07: Tract 210.03: Block Group 1: Block 1021, Block 1022, Block 1026, Block 1027, Block 1042, Block 1043, Block 1044, Block 1045; Block Group 3: Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3029, Block 3030, Block 3031, Block 3032, Block 3033, Block 3034,

Block 3035, Block 3036, Block 3037, Block 3038, Block 3039, Block 3040, Block 3045; Precinct 12: Tract 202.02: Block Group 4: Block 4010, Block 4020; Precinct 13: Tract 202.01: Block Group 4: Block 4024; Tract 202.02: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1016, Block 1024, Block 1025; Block Group 4: Block 4000, Block 4001, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 4007, Block 4008, Block 4009, Block 4011, Block 4012, Block 4013, Block 4014, Block 4015, Block 4016, Block 4017, Block 4018, Block 4019; Precinct 14, Precinct 15, Precinct 16, Precinct 17, Precinct 18, Precinct 19, Precinct 20, Precinct 21, Precinct 22 & 33, Precinct 28, Precinct 29, Precinct 30, Precinct 31, Precinct 34: Tract 206: Block Group 1: Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010; Precinct 35, Precinct 37, Precinct 38, Precinct 39, Precinct 40, Precinct 41, Precinct 42.

District 69: Anson County, Union County: Precinct 01, Precinct 02, Precinct 03, Precinct 04, Precinct 07: Tract 205: Block Group 4: Block 4011, Block 4012, Block 4013, Block 4015, Block 4016, Block 4017, Block 4018, Block 4019, Block 4020, Block 4021, Block 4022, Block 4023, Block 4024, Block 4025, Block 4026, Block 4027, Block 4028, Block 4029, Block 4030, Block 4031, Block 4032, Block 4033, Block 4034; Tract 209.02: Block Group 2: Block 2000, Block 2001, Block 2002, Block 2013; Tract 210.03: Block Group 3: Block 3000, Block 3001, Block 3041, Block 3042, Block 3043, Block 3044; Precinct 08, Precinct 09, Precinct 10, Precinct 23, Precinct 24, Precinct 25, Precinct 26, Precinct 27, Precinct 34: Tract 201: Block Group 2: Block 2047, Block 2048; Block Group 3: Block 3012, Block 3024, Block 3025, Block 3026, Block 3027, Block 3028, Block 3029, Block 3030, Block 3034, Block 3035, Block 3036, Block 3037, Block 3038, Block 3039, Block 3040, Block 3041, Block 3042, Block 3043, Block 3044, Block 3045, Block 3046, Block 3047, Block 3048, Block 3049, Block 3050, Block 3051, Block 3052, Block 3053, Block 3054, Block 3055, Block 3056, Block 3057, Block 3058, Block 3059, Block 3060, Block 3061, Block 3062, Block 3063, Block 3064, Block 3065, Block 3066, Block 3067, Block 3068, Block 3069, Block 3070, Block 3071, Block 3072, Block 3998, Block 3999; Tract 206: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1029, Block 1030, Block 1998, Block 1999; Tract 207: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2013, Block 2014, Block 2038, Block 2039; Precinct 36, Precinct 43.

District 70: Randolph County: Precinct Archdale 1, Precinct Archdale 2, Precinct Archdale 3, Precinct Asheboro Armory, Precinct Asheboro Eastside, Precinct Asheboro Lindley Park, Precinct Asheboro North 2, Precinct Falls, Precinct Franklinville, Precinct Level Cross, Precinct Liberty, Precinct New Market North, Precinct New Market South, Precinct Providence 1, Precinct Providence 2, Precinct Ramseur, Precinct Randleman East, Precinct Randleman West, Precinct Staley.

District 71: Forsyth County: Precinct 042: Tract 35: Block Group 4: Block 4006, Block 4007; Precinct 043: Tract 34.01: Block Group 1: Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1033, Block 1034, Block 1035, Block 1036, Block

1041, Block 1043, Block 1045, Block 1046; Block Group 2: Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034; Precinct 082: Tract 17: Block Group 1: Block 1000; Block Group 5: Block 5000, Block 5001, Block 5002, Block 5003, Block 5009, Block 5010, Block 5011, Block 5012, Block 5013, Block 5014, Block 5015, Block 5016, Block 5017, Block 5018, Block 5019, Block 5020, Block 5021, Block 5022, Block 5023, Block 5024, Block 5025, Block 5026, Block 5027, Block 5028, Block 5029, Block 5030, Block 5031, Block 5034, Block 5035, Block 5036, Block 5037, Block 5038, Block 5039, Block 5040, Block 5041, Block 5042; Tract 30.01: Block Group 1: Block 1050, Block 1052, Block 1053, Block 1054, Block 1055, Block 1056, Block 1057, Block 1058, Block 1059, Block 1060, Block 1061, Block 1062, Block 1063, Block 1064, Block 1065, Block 1070, Block 1071, Block 1072, Block 1073, Block 1074, Block 1075, Block 1076, Block 1077, Block 1078, Block 1079, Block 1080, Block 1081, Block 1082, Block 1083, Block 1084, Block 1085, Block 1086, Block 1087, Block 1093, Block 1094, Block 1095, Block 1998, Block 1999; Tract 30.02: Block Group 2: Block 2029, Block 2032, Block 2033, Block 2034; Precinct 122: Tract 37: Block Group 4: Block 4036, Block 4037, Block 4039, Block 4040, Block 4041, Block 4042, Block 4043, Block 4044, Block 4045, Block 4046, Block 4047, Block 4083, Block 4084; Precinct 301, Precinct 401, Precinct 402, Precinct 403, Precinct 404, Precinct 405, Precinct 501, Precinct 502, Precinct 503, Precinct 504, Precinct 505, Precinct 506: Tract 36: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012; Block Group 2: Block 2000, Block 2001, Block 2005, Block 2006, Block 2007, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2999; Precinct 507: Tract 33.03: Block Group 2: Block 2006, Block 2007, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2020, Block 2021, Block 2023, Block 2024, Block 2035, Block 2036, Block 2037, Block 2038, Block 2039, Block 2040, Block 2041, Block 2042, Block 2043, Block 2052, Block 2053, Block 2054, Block 2055, Block 2062, Block 2998; Block Group 3: Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021; Tract 34.01: Block Group 1: Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1037, Block 1038, Block 1039, Block 1040, Block 1052, Block 1053, Block 1054, Block 1055; Precinct 601: Tract 9: Block Group 1, Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3013, Block 3014; Block Group 4: Block 4000, Block 4001, Block 4002, Block 4003, Block 4008, Block 4009, Block 4015, Block 4016, Block 4017, Block 4018; Tract 10: Block Group 1: Block 1000, Block 1001, Block 1006, Block 1007, Block 1008, Block 1009; Block Group 2: Block 2004; Precinct 602: Tract 37: Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2024, Block 2025, Block 2026, Block

2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2998, Block 2999; Precinct 603, Precinct 604: Tract 10: Block Group 2: Block 2000, Block 2001, Block 2002, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018; Block Group 3: Block 3000, Block 3001, Block 3012, Block 3013, Block 3014; Tract 37: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022; Precinct 605: Tract 20.02: Block Group 1: Block 1001, Block 1002, Block 1012, Block 1013, Block 1014; Block Group 2: Block 2002, Block 2003, Block 2004, Block 2007, Block 2016, Block 2017; Tract 36: Block Group 2: Block 2002, Block 2003, Block 2004, Block 2008, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2998; Block Group 3: Block 3007, Block 3008, Block 3009; Tract 37: Block Group 1: Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028; Block Group 4: Block 4000, Block 4001, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 4007, Block 4008, Block 4009, Block 4010, Block 4011, Block 4012; Precinct 606, Precinct 704: Tract 10: Block Group 3: Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3009, Block 3010, Block 3011; Tract 21: Block Group 1: Block 1007; Precinct 902: Tract 1: Block Group 1: Block 1033, Block 1034, Block 1048, Block 1049, Block 1050, Block 1080, Block 1081, Block 1082, Block 1083, Block 1084, Block 1085, Block 1086, Block 1090, Block 1091, Block 1092; Tract 2: Block Group 1: Block 1014, Block 1015, Block 1018, Block 1019, Block 1020, Block 1021, Block 1024, Block 1025, Block 1026; Tract 11: Block Group 2: Block 2000, Block 2001, Block 2002, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022.

District 72: Forsyth County: Precinct 031: Tract 28.07: Block Group 1: Block 1000, Block 1001, Block 1011, Block 1012, Block 1022, Block 1023, Block 1024, Block 1025; Precinct 032: Tract 28.04: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014; Tract 28.05: Block Group 3: Block 3077, Block 3078, Block 3079; Block Group 4: Block 4000, Block 4001, Block 4002, Block 4004, Block 4005, Block 4006, Block 4007, Block 4008, Block 4009, Block 4010, Block 4011, Block 4012, Block 4017, Block 4018; Tract 28.06: Block Group 1: Block 1009, Block 1010, Block 1011, Block 1031; Precinct 033: Tract 27.02: Block Group 1: Block 1000, Block 1001, Block 1012; Tract 28.05: Block Group 2: Block 2027, Block 2028; Tract 28.06: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038; Block Group 2; Tract 28.07: Block Group 1: Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021; Tract 29.01: Block Group 2: Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2022, Block 2023, Block 2024, Block 2029, Block 2030, Block 2031, Block 2033; Precinct 081, Precinct 082: Tract 17: Block Group 5: Block 5004, Block 5005, Block 5006, Block 5007, Block 5008; Tract 30.02: Block Group 2: Block 2035, Block 2036, Block 2037; Precinct 083: Tract 16.01: Block Group 1: Block 1000, Block 1012, Block 1013; Tract 29.02: Block Group 1: Block 1002, Block 1003, Block

1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038, Block 1039, Block 1040, Block 1041, Block 1042, Block 1043, Block 1044, Block 1045, Block 1046, Block 1047, Block 1048, Block 1049, Block 1050, Block 1051, Block 1052, Block 1053, Block 1054, Block 1055, Block 1056, Block 1057, Block 1058, Block 1059, Block 1060, Block 1061, Block 1062, Block 1063, Block 1064, Block 1065, Block 1066, Block 1067, Block 1068, Block 1069, Block 1070, Block 1071, Block 1072, Block 1073, Block 1074, Block 1075, Block 1076, Block 1077, Block 1078, Block 1079, Block 1080, Block 1081, Block 1082, Block 1083, Block 1084, Block 1085, Block 1086, Block 1087, Block 1090, Block 1091, Block 1092, Block 1093, Block 1094, Block 1095, Block 1096, Block 1097, Block 1098, Block 1099, Block 1100; Block Group 2: Block 2000, Block 2011; Block Group 4: Block 4000, Block 4001, Block 4002, Block 4005, Block 4006, Block 4007, Block 4008, Block 4009, Block 4010, Block 4011, Block 4012, Block 4013, Block 4014, Block 4026, Block 4027, Block 4028, Block 4029, Block 4030, Block 4031, Block 4032, Block 4033, Block 4034, Block 4035, Block 4036, Block 4037, Block 4038, Block 4039; Tract 30.02: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1016, Block 1017, Block 1018; Block Group 2: Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2020, Block 2021; Precinct 101: Tract 28.04: Block Group 1: Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1999; Block Group 2: Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3011, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3024, Block 3025, Block 3026, Block 3027, Block 3030; Tract 28.05: Block Group 4: Block 4015, Block 4016, Block 4019; Precinct 111: Tract 29.01: Block Group 2: Block 2021, Block 2025, Block 2026, Block 2027, Block 2028; Precinct 201, Precinct 203, Precinct 204, Precinct 205, Precinct 206, Precinct 207, Precinct 302, Precinct 303, Precinct 304, Precinct 305, Precinct 306, Precinct 903, Precinct 904, Precinct 905, Precinct 907, Precinct 908; Tract 26.03: Block Group 3: Block 3001; Tract 26.04: Block Group 3: Block 3000, Block 3001, Block 3002; Precinct 909: Tract 26.04: Block Group 1: Block 1012, Block 1013, Block 1016, Block 1017, Block 1019; Block Group 2: Block 2001, Block 2002, Block 2003, Block 2007, Block 2008, Block 2009, Block 2010, Block 2023, Block 2024, Block 2025.

District 73: Davidson County: Precinct Abbotts Creek, Precinct Gumtree, Precinct Wallburg; Forsyth County: Precinct 011, Precinct 012, Precinct 013, Precinct 014, Precinct 015, Precinct 021, Precinct 042: Tract 35: Block Group 4: Block 4000, Block 4001, Block 4002, Block 4003, Block 4004, Block 4005, Block 4008, Block 4009, Block 4010, Block 4011, Block 4012, Block 4013, Block 4014, Block 4015, Block 4016, Block 4017, Block 4018, Block 4019; Precinct 043: Tract 33.03: Block Group 3: Block 3032, Block 3033, Block 3034, Block 3035, Block 3036, Block 3037, Block 3038, Block 3039; Tract 34.01: Block Group 1: Block 1000, Block 1001, Block 1042,

Block 1044, Block 1047, Block 1048, Block 1049, Block 1050, Block 1051, Block 1056, Block 1057, Block 1058; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022; Tract 34.02: Block Group 1, Block Group 2: Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2035, Block 2036, Block 2037; Precinct 061, Precinct 062, Precinct 063, Precinct 064, Precinct 065, Precinct 066, Precinct 067, Precinct 068, Precinct 112: Tract 31.01: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1013, Block 1052, Block 1053, Block 1054; Precinct 507: Tract 33.03: Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2056, Block 2057, Block 2058, Block 2059, Block 2060, Block 2061; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3022, Block 3023, Block 3024, Block 3025, Block 3026, Block 3027, Block 3028, Block 3029, Block 3030, Block 3031, Block 3040, Block 3041.

District 74: Forsyth County: Precinct 031: Tract 28.07: Block Group 2: Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2031, Block 2032, Block 2033, Block 2034, Block 2035, Block 2036, Block 2037, Block 2999; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3012, Block 3013, Block 3022, Block 3023, Block 3024, Block 3025, Block 3026, Block 3027; Precinct 032: Tract 28.05: Block Group 1: Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1025, Block 1026, Block 1027, Block 1050, Block 1051, Block 1052, Block 1053, Block 1054, Block 1082, Block 1083, Block 1084, Block 1085, Block 1086, Block 1087, Block 1088, Block 1089, Block 1090, Block 1091, Block 1092, Block 1093, Block 1094, Block 1095, Block 1096, Block 1097, Block 1098, Block 1100; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3040, Block 3041, Block 3042, Block 3043, Block 3044, Block 3045, Block 3046, Block 3047, Block 3048, Block 3049, Block 3052, Block 3053, Block 3057, Block 3058, Block 3059, Block 3060, Block 3061, Block 3062, Block 3064, Block 3065, Block 3066, Block 3069, Block 3070, Block 3071, Block 3072, Block 3073, Block 3074, Block 3075, Block 3076, Block 3080, Block 3995, Block 3996, Block 3997, Block 3998, Block 3999; Block Group 4: Block 4003; Precinct 033: Tract 29.01: Block Group 2: Block 2005, Block 2006, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013; Precinct 034, Precinct 082: Tract 30.01: Block Group 1: Block 1002, Block 1003, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031,

Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038, Block 1039, Block 1040, Block 1041, Block 1042, Block 1043, Block 1044, Block 1045, Block 1046, Block 1047, Block 1048, Block 1049, Block 1051, Block 1088, Block 1089, Block 1090, Block 1091, Block 1092; Block Group 2: Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2076, Block 2077, Block 2078, Block 2079, Block 2080, Block 2081, Block 2082; Block Group 3: Block 3009, Block 3010, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3064, Block 3065, Block 3066, Block 3067, Block 3068, Block 3069, Block 3070, Block 3071, Block 3072, Block 3073, Block 3077, Block 3089, Block 3090, Block 3091; Tract 30.02: Block Group 2: Block 2000, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2030, Block 2031; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3015, Block 3016, Block 3021, Block 3022, Block 3023, Block 3024, Block 3025, Block 3026, Block 3027, Block 3028, Block 3029, Block 3030, Block 3031, Block 3032, Block 3033, Block 3034, Block 3035, Block 3036, Block 3037, Block 3038, Block 3039, Block 3040, Block 3041, Block 3042, Block 3043, Block 3044, Block 3045, Block 3046, Block 3047, Block 3048, Block 3049, Block 3050, Block 3051, Block 3052, Block 3053, Block 3054, Block 3055, Block 3056, Block 3057, Block 3058, Block 3059, Block 3060, Block 3061, Block 3062, Block 3063, Block 3997, Block 3998, Block 3999; Precinct 083: Tract 29.02: Block Group 1: Block 1000, Block 1001, Block 1011, Block 1012, Block 1013, Block 1014, Block 1088, Block 1089; Tract 30.02: Block Group 3: Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3017, Block 3018, Block 3019, Block 3020; Precinct 091, Precinct 092, Precinct 101: Tract 28.01: Block Group 3: Block 3028, Block 3029, Block 3030, Block 3031, Block 3032, Block 3033, Block 3034, Block 3035, Block 3040, Block 3041, Block 3042, Block 3043, Block 3044, Block 3045, Block 3046, Block 3047, Block 3048, Block 3061, Block 3062, Block 3063; Tract 28.04: Block Group 3: Block 3028, Block 3029; Tract 28.05: Block Group 3: Block 3063; Block Group 4: Block 4013, Block 4014; Precinct 111: Tract 28.07: Block Group 2: Block 2000, Block 2001, Block 2029, Block 2030, Block 2038; Tract 29.01: Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2007, Block 2008, Block 2019, Block 2020; Tract 29.02: Block Group 5: Block 5006, Block 5007, Block 5008, Block 5009, Block 5010, Block 5011, Block 5013, Block 5014, Block 5015, Block 5016, Block 5017, Block 5018, Block 5019, Block 5020, Block 5021, Block 5022, Block 5023, Block 5024, Block 5025, Block 5026, Block 5027, Block 5028, Block 5029, Block 5030, Block 5031, Block 5034, Block 5999; Block Group 6: Block 6005, Block 6006, Block 6007, Block 6008; Precinct 112: Tract 29.02: Block Group 5: Block 5000, Block 5001, Block 5002, Block 5003, Block 5004, Block 5005, Block 5032, Block 5033, Block 5035, Block 5036, Block 5037, Block 5038, Block 5039; Block Group 6: Block 6000, Block 6001, Block 6002, Block 6003, Block 6004, Block 6009, Block 6010, Block 6011, Block 6012, Block 6013, Block 6014; Tract 31.01: Block Group 1: Block 1012, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038, Block 1039, Block 1040, Block 1041, Block 1042, Block 1043, Block 1044, Block 1045, Block 1046, Block 1047, Block 1048, Block 1049, Block 1050, Block 1051,



Block 1055, Block 1056, Block 1057, Block 1058, Block 1059, Block 1060, Block 1061, Block 1062, Block 1063, Block 1064, Block 1065, Block 1066, Block 1067, Block 1068; Block Group 2: Block 2023, Block 2024, Block 2026, Block 2027, Block 2028, Block 2029, Block 2061, Block 2062, Block 2064, Block 2993; Precinct 131, Precinct 132, Precinct 133: Tract 39.07: Block Group 2: Block 2008; Tract 40.08: Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008; Tract 41.02: Block Group 1: Block 1014, Block 1015, Block 1016, Block 1018, Block 1019, Block 1021, Block 1022, Block 1023, Block 1024, Block 1997, Block 1998; Block Group 2: Block 2001, Block 2002, Block 2003, Block 2004, Block 2999; Precinct 601: Tract 10: Block Group 1: Block 1002, Block 1003, Block 1004, Block 1005, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017; Block Group 2: Block 2003, Block 2005, Block 2006; Block Group 4: Block 4000; Precinct 604: Tract 10: Block Group 2: Block 2007, Block 2008; Block Group 4: Block 4003, Block 4004, Block 4011; Precinct 701, Precinct 702, Precinct 703, Precinct 706, Precinct 707, Precinct 801, Precinct 802, Precinct 803, Precinct 804, Precinct 805, Precinct 806, Precinct 809, Precinct 901, Precinct 902: Tract 1: Block Group 1: Block 1035, Block 1036, Block 1043, Block 1044, Block 1045, Block 1046, Block 1047, Block 1087, Block 1088, Block 1089; Tract 11: Block Group 1: Block 1013, Block 1014, Block 1015, Block 1016, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024; Block Group 2: Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2023, Block 2024; Block Group 3: Block 3010, Block 3011; Precinct 906, Precinct 908: Tract 26.04: Block Group 3: Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3024, Block 3025, Block 3026, Block 3027, Block 3028, Block 3029, Block 3030, Block 3031, Block 3032, Block 3033, Block 3034, Block 3035, Block 3036, Block 3037, Block 3038, Block 3039, Block 3040, Block 3041, Block 3042, Block 3043, Block 3044, Block 3045, Block 3047, Block 3048, Block 3049, Block 3050, Block 3051, Block 3052, Block 3053, Block 3997, Block 3998, Block 3999; Precinct 909: Tract 26.04: Block Group 1: Block 1014, Block 1015, Block 1018; Block Group 2: Block 2004, Block 2005, Block 2006, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031.

District 75: Forsyth County: Precinct 042: Tract 35: Block Group 4: Block 4020, Block 4021, Block 4022, Block 4023, Block 4024, Block 4025, Block 4026, Block 4027, Block 4028, Block 4029, Block 4030, Block 4031, Block 4032, Block 4033, Block 4034, Block 4035; Tract 36: Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3024, Block 3025, Block 3026, Block 3027, Block 3028, Block 3029, Block 3030, Block 3031, Block 3032, Block 3033, Block 3034, Block 3035, Block 3036, Block 3037, Block 3039, Block 3040, Block 3041, Block 3042, Block 3043, Block 3044, Block 3045, Block 3046, Block 3047, Block 3048, Block 3049, Block 3050, Block 3051, Block 3052, Block 3053, Block 3054, Block 3055, Block 3056, Block 3057, Block 3058, Block 3059, Block 3060, Block 3061, Block 3062, Block 3063, Block 3064, Block 3065, Block

3066, Block 3067, Block 3068, Block 3069, Block 3999; Precinct 051, Precinct 052, Precinct 053, Precinct 054, Precinct 055, Precinct 071, Precinct 072, Precinct 073, Precinct 074, Precinct 075, Precinct 122: Tract 37: Block Group 2: Block 2041, Block 2042, Block 2043; Block Group 4: Block 4013, Block 4014, Block 4015, Block 4016, Block 4017, Block 4018, Block 4019, Block 4020, Block 4021, Block 4022, Block 4023, Block 4024, Block 4025, Block 4026, Block 4027, Block 4028, Block 4029, Block 4030, Block 4031, Block 4032, Block 4033, Block 4034, Block 4035, Block 4038, Block 4048, Block 4049, Block 4050, Block 4051, Block 4052, Block 4053, Block 4054, Block 4055, Block 4056, Block 4057, Block 4058, Block 4059, Block 4060, Block 4061, Block 4062, Block 4063, Block 4064, Block 4065, Block 4066, Block 4067, Block 4068, Block 4069, Block 4070, Block 4071, Block 4072, Block 4073, Block 4074, Block 4075, Block 4076, Block 4077, Block 4078, Block 4079, Block 4080, Block 4081, Block 4082, Block 4085, Block 4086, Block 4087, Block 4088, Block 4089, Block 4090, Block 4091, Block 4092, Block 4093, Block 4094, Block 4095, Block 4096, Block 4097, Block 4098, Block 4099, Block 4100, Block 4101, Block 4102, Block 4103, Block 4104, Block 4105, Block 4106, Block 4107, Block 4108, Block 4109, Block 4110, Block 4111, Block 4112, Block 4113, Block 4114, Block 4115, Block 4116, Block 4117, Block 4118, Block 4119, Block 4120, Block 4121, Block 4997, Block 4998, Block 4999; Tract 38.03: Block Group 2: Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2025, Block 2026, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034; Precinct 123, Precinct 133: Tract 40.08: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1016, Block 1017, Block 1018; Block Group 2: Block 2009, Block 2010, Block 2011; Tract 40.09: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1019, Block 1028, Block 1999; Block Group 2; Tract 41.02: Block Group 2: Block 2012, Block 2998; Precinct 506: Tract 36: Block Group 1: Block 1013; Block Group 3: Block 3004, Block 3005, Block 3013, Block 3014; Precinct 602: Tract 37: Block Group 2: Block 2023, Block 2032, Block 2033, Block 2034, Block 2035, Block 2036, Block 2037, Block 2038, Block 2039, Block 2040; Block Group 3; Tract 38.03: Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2022, Block 2023, Block 2024, Block 2027, Block 2028; Precinct 605: Tract 36: Block Group 3: Block 3006, Block 3010, Block 3011, Block 3012, Block 3038; Precinct 607, Precinct 704: Tract 21: Block Group 1: Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1008, Block 1009, Block 1010, Block 1011; Block Group 3: Block 3000, Block 3001, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010; Tract 22: Block Group 4: Block 4014, Block 4015, Block 4018, Block 4019; Precinct 705, Precinct 708, Precinct 709, Precinct 807, Precinct 808.

District 76: Rowan County: Precinct Barnhardt Mill, Precinct Blackwelder Park, Precinct Bostian Cross Road, Precinct Bostian School, Precinct China Grove North, Precinct China Grove South, Precinct Enochville East, Precinct Enochville West, Precinct Faith, Precinct Gold Knob, Precinct Granite Quarry North, Precinct Granite Quarry South, Precinct Hatters Shop, Precinct Kannapolis East, Precinct Kannapolis West, Precinct Landis East, Precinct Landis West, Precinct Morgan 1, Precinct Morgan 2, Precinct Rock Grove, Precinct Rockwell, Precinct Sumner: Tract 502.02: Block

Group 2: Block 2033, Block 2034, Block 2035, Block 2036, Block 2066; Tract 511.02: Block Group 1: Block 1000, Block 1001; Block Group 2: Block 2003, Block 2004, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2014, Block 2015, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030; Tract 512.03: Block Group 1: Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1033; Block Group 2: Block 2000, Block 2001, Block 2004, Block 2014, Block 2015, Block 2016, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030; Tract 512.04: Block Group 2: Block 2020, Block 2021, Block 2022, Block 2024, Block 2027, Block 2028; Precinct Trading Ford.

District 77: Rowan County: Precinct Bradshaw, Precinct Cleveland, Precinct Ellis, Precinct Franklin, Precinct Innes West, Precinct Locke North, Precinct Locke South, Precinct Milford Hills City, Precinct Milford Hills County, Precinct Mt. Ulla, Precinct Scotch Irish, Precinct Spencer, Precinct Spencer East, Precinct Steele, Precinct Sumner: Tract 511.02: Block Group 2: Block 2012, Block 2013, Block 2016; Tract 512.03: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1030, Block 1031, Block 1032, Block 1034, Block 1035; Block Group 2: Block 2002, Block 2003, Block 2017; Tract 512.04: Block Group 1: Block 1013, Block 1023, Block 1024, Block 1040; Block Group 2: Block 2000, Block 2016, Block 2017, Block 2018, Block 2019, Block 2023; Precinct Unity, Precinct Ward 1 East, Precinct Ward 1 North, Precinct Ward 1 West, Precinct Ward 2 East, Precinct Ward 2 North, Precinct Ward 2 West, Precinct Ward 3 West, Precinct Ward South.

District 78: Randolph County: Precinct Asheboro Loflin, Precinct Asheboro Mccrary, Precinct Asheboro North 1, Precinct Asheboro Southpointe, Precinct Asheboro Westside, Precinct Back Creek, Precinct Brower, Precinct Cedar Grove East, Precinct Cedar Grove West, Precinct Coleridge, Precinct Concord, Precinct Grant, Precinct New Hope, Precinct Pleasant Grove, Precinct Prospect, Precinct Richland, Precinct Tabernacle, Precinct Trinity East, Precinct Trinity Tabernacle, Precinct Trinity West, Precinct Union.

District 79: Davie County, Iredell County: Precinct Bethany: Tract 607: Block Group 1: Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1014, Block 1015, Block 1016, Block 1017; Block Group 2: Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2014, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2024, Block 2026, Block 2991, Block 2993, Block 2994, Block 2997, Block 2998; Tract 610: Block Group 2: Block 2000; Block Group 3: Block 3008, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3019; Block Group 4: Block 4014, Block 4111, Block 4112; Precinct Chambersburg, Precinct Cool Springs, Precinct Statesville 1, Precinct Statesville 2, Precinct Statesville 6: Tract 601: Block Group 4: Block 4025, Block 4026, Block 4027, Block 4028, Block 4029, Block 4030, Block 4031, Block 4033, Block 4034; Tract 602: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1017, Block 1018, Block 1020; Block Group 2; Tract 603: Block Group 1: Block 1011; Block Group 2: Block 2000, Block 2007, Block 2008, Block 2030; Block Group 3: Block 3028; Block Group 4: Block 4000, Block 4001, Block 4002, Block 4003, Block 4028, Block 4029; Tract 606: Block Group 3: Block 3038,

Block 3039, Block 3040, Block 3041, Block 3042, Block 3043, Block 3044, Block 3045, Block 3046, Block 3047, Block 3054, Block 3055, Block 3056, Block 3057, Block 3058, Block 3059, Block 3060; Block Group 4: Block 4008, Block 4009, Block 4011, Block 4012, Block 4013, Block 4014, Block 4015, Block 4016, Block 4017, Block 4018, Block 4019, Block 4020, Block 4021, Block 4022, Block 4023, Block 4024, Block 4025, Block 4026, Block 4030, Block 4031, Block 4032, Block 4033, Block 4034, Block 4035, Block 4036, Block 4037, Block 4038, Block 4039, Block 4041, Block 4042, Block 4043, Block 4044, Block 4045, Block 4046, Block 4048, Block 4049, Block 4053, Block 4997; Tract 612: Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3027, Block 3028, Block 3029, Block 3033; Tract 613: Block Group 3: Block 3013, Block 3014, Block 3015, Block 3016; Precinct Turnersburg.

District 80: Davidson County: Precinct Arcadia, Precinct Denton, Precinct Emmons, Precinct Healing Springs, Precinct Holly Grove, Precinct Lexington 3, Precinct Liberty, Precinct Midway, Precinct North Davidson, Precinct Reeds Yadkin College, Precinct Reedy Creek, Precinct Silver Valley, Precinct South Davidson, Precinct Thomasville 01, Precinct Thomasville 05: Tract 607: Block Group 1: Block 1031; Tract 610: Block Group 1: Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038, Block 1039, Block 1040, Block 1041, Block 1042, Block 1043, Block 1044, Block 1045, Block 1046, Block 1047, Block 1048; Block Group 2: Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030; Block Group 3: Block 3019, Block 3020, Block 3021, Block 3024, Block 3025, Block 3026, Block 3027, Block 3028, Block 3029; Tract 611: Block Group 1: Block 1000, Block 1005; Block Group 2: Block 2001, Block 2002, Block 2004, Block 2005; Precinct Thomasville 08, Precinct Thomasville 09, Precinct Thomasville 10, Precinct Welcome, Precinct West Arcadia.

District 81: Davidson County: Precinct Boone, Precinct Central, Precinct Cotton Grove, Precinct Lexington 1, Precinct Lexington 2, Precinct Lexington 4, Precinct Silver Hill, Precinct Southmont, Precinct Thomasville 02, Precinct Thomasville 03, Precinct Thomasville 04, Precinct Thomasville 05: Tract 607: Block Group 1: Block 1032; Tract 610: Block Group 2: Block 2019, Block 2020, Block 2021; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3017, Block 3018, Block 3022, Block 3023, Block 3030, Block 3031, Block 3032, Block 3033, Block 3034, Block 3035, Block 3036, Block 3045, Block 3046, Block 3047, Block 3048, Block 3049, Block 3050, Block 3051, Block 3052, Block 3053, Block 3054, Block 3055, Block 3056, Block 3057, Block 3058, Block 3059; Precinct Thomasville 07, Precinct Tyro, Precinct Ward 1, Precinct Ward 2, Precinct Ward 3, Precinct Ward 4, Precinct Ward 5, Precinct Ward 6.

District 82: Cabarrus County: Precinct 01-03, Precinct 02-01, Precinct 02-02, Precinct 02-03, Precinct 02-04, Precinct 02-05, Precinct 02-06, Precinct 02-07, Precinct 03-00, Precinct 12-01, Precinct 12-02, Precinct 12-03, Precinct 12-04, Precinct 12-05, Precinct 12-06, Precinct 12-07, Precinct 12-08, Precinct 12-09, Precinct 12-10, Precinct 12-11, Precinct 12-12.

District 83: Cabarrus County: Precinct 01-01, Precinct 01-02, Precinct 01-04, Precinct 04-01, Precinct 04-02, Precinct 04-03, Precinct 04-04, Precinct 04-05, Precinct 04-06, Precinct 04-07, Precinct 04-08, Precinct 04-09, Precinct 04-10, Precinct 05-00, Precinct 06-00, Precinct 07-00, Precinct 08-00, Precinct 09-00, Precinct 10-00, Precinct 11-01, Precinct 11-02.

District 84: Avery County, Caldwell County: Precinct Gamewell 1, Precinct Gamewell 2, Precinct Globe/Johns River, Precinct Lenoir 4: Tract 302: Block Group 2: Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2025; Block Group 3: Block 3000, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3024, Block 3025, Block 3026, Block 3027, Block 3028, Block 3029, Block 3030, Block 3031, Block 3032, Block 3033, Block 3034; Block Group 4: Block 4001, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 4007, Block 4008, Block 4009, Block 4010, Block 4011, Block 4012, Block 4013, Block 4014, Block 4015, Block 4016, Block 4017, Block 4018, Block 4019, Block 4020, Block 4021, Block 4022, Block 4023, Block 4024; Tract 303: Block Group 2: Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021; Tract 309: Block Group 1: Block 1133, Block 1134, Block 1135, Block 1136; Precinct Mulberry, Precinct North Catawba 2: Tract 303: Block Group 3: Block 3017, Block 3018, Block 3019, Block 3020, Block 3022, Block 3023; Precinct Wilson Creek; Mitchell County, Yancey County: Precinct Brush Creek, Precinct Burnsville, Precinct Cane River, Precinct Crabtree, Precinct Egypt, Precinct Green Mountain, Precinct Jacks Creek, Precinct Pensacola, Precinct Prices Creek: Tract 9603: Block Group 1: Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1078; Tract 9604: Block Group 1: Block 1066, Block 1067, Block 1068, Block 1069, Block 1094; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3037, Block 3041, Block 3042, Block 3043, Block 3044, Block 3045, Block 3046, Block 3047, Block 3048, Block 3049, Block 3050, Block 3051, Block 3054, Block 3055, Block 3056, Block 3057, Block 3058, Block 3059, Block 3060, Block 3063, Block 3064, Block 3065, Block 3094, Block 3095, Block 3096, Block 3097, Block 3098, Block 3099, Block 3100, Block 3101, Block 3102, Block 3103, Block 3104, Block 3105, Block 3106, Block 3107, Block 3108; Precinct Ramseytown, Precinct South Toe.

District 85: Burke County: Precinct Icard 2, Precinct Icard 3, Precinct Icard 4: Tract 210: Block Group 2: Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2047, Block 2049, Block 2053, Block 2054, Block 2055, Block 2056, Block 2057, Block 2058, Block 2059, Block 2060, Block 2061, Block 2062, Block 2066, Block 2067, Block 2068, Block 2069, Block 2072, Block 2073, Block 2074, Block 2075, Block 2076, Block 2077, Block 2078; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006; Tract 212.02: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1036, Block 1037, Block 1038, Block 1039, Block 1040, Block 1041; Block Group 2: Block 2002, Block 2003; Precinct Icard 5, Precinct Lower Fork, Precinct

Morganton 07: Tract 213.01: Block Group 1: Block 1009, Block 1010; Block Group 3: Block 3018, Block 3019, Block 3021; Tract 213.02: Block Group 1: Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1025, Block 1026; Block Group 2: Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2014, Block 2015, Block 2016, Block 2024; Precinct Silver Creek 2, Precinct Silver Creek 3, Precinct Upper Fork; McDowell County.

District 86: Burke County: Precinct Drexel 1, Precinct Drexel 3, Precinct Icard 1, Precinct Icard 4: Tract 210: Block Group 2: Block 2042, Block 2043, Block 2044, Block 2048, Block 2050, Block 2063, Block 2064, Block 2065, Block 2070, Block 2071; Precinct Jonas Ridge, Precinct Linville 1, Precinct Linville 2, Precinct Lovelady 1, Precinct Lovelady 2, Precinct Lovelady 4, Precinct Lower Creek, Precinct Morganton 01, Precinct Morganton 04, Precinct Morganton 05, Precinct Morganton 06, Precinct Morganton 07: Tract 203.02: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1031, Block 1032; Tract 213.01: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1011, Block 1012; Block Group 2; Tract 213.02: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1024; Block Group 2: Block 2013; Precinct Morganton 08, Precinct Morganton 09, Precinct Morganton 10, Precinct Quaker Meadow 1, Precinct Quaker Meadow 2, Precinct Silver Creek 1, Precinct Smokey Creek, Precinct Upper Creek.

District 87: Caldwell County: Precinct Hudson 1, Precinct Hudson 2, Precinct Kings Creek, Precinct Lenoir 1, Precinct Lenoir 2, Precinct Lenoir 3, Precinct Lenoir 4: Tract 302: Block Group 2: Block 2000, Block 2001, Block 2010, Block 2011, Block 2012, Block 2024, Block 2026; Precinct Little River, Precinct Lovelady 1, Precinct Lovelady 2, Precinct Lovelady-Rhodhiss, Precinct Lower Creek 1, Precinct Lower Creek 2, Precinct Lower Creek 3, Precinct Lower Creek 4, Precinct North Catawba 1, Precinct North Catawba 2: Tract 303: Block Group 3: Block 3013, Block 3016, Block 3021, Block 3024, Block 3025, Block 3026, Block 3027; Tract 307: Block Group 1: Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014; Block Group 5: Block 5001; Tract 308: Block Group 2: Block 2000, Block 2001, Block 2005; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3015, Block 3016, Block 3017, Block 3018; Block Group 4: Block 4000, Block 4001, Block 4002, Block 4003, Block 4004, Block 4005; Precinct Patterson, Precinct Sawmills 1, Precinct Sawmills 2, Precinct Yadkin Valley.

District 88: Alexander County, Catawba County: Precinct College Park, Precinct Falling Creek, Precinct Greenmont, Precinct Highland, Precinct Kenworth, Precinct Northwest, Precinct Oakland Heights, Precinct Oakwood, Precinct Ridgeview, Precinct Sweetwater: Tract 109: Block Group 2: Block 2000, Block 2025, Block 2026, Block 2027, Block 2028, Block 2030, Block 2031, Block 2032, Block 2033; Tract 110: Block Group 2: Block 2018, Block 2024, Block 2025, Block 2026, Block 2028, Block 2029, Block 2030, Block 2031; Block Group 4: Block 4018, Block 4019, Block 4023, Block 4024, Block 4025, Block 4026, Block 4027, Block 4028, Block 4029, Block 4030, Block 4031, Block 4032, Block 4033, Block 4034, Block 4035, Block 4036, Block 4037, Block 4038; Tract 111.02: Block Group 1: Block 1000, Block 1001,

Block 1002; Block Group 3: Block 3001, Block 3002, Block 3003, Block 3004; Precinct Viewmont 1, Precinct Viewmont 2.

District 89: Catawba County: Precinct Balls Creek, Precinct Catawba, Precinct Claremont, Precinct Lake Norman, Precinct Maiden, Precinct Maiden East, Precinct Monogram, Precinct Mount Olive, Precinct Newton South, Precinct Oxford, Precinct Sherrills Ford, Precinct Startown: Tract 117.01: Block Group 2: Block 2048, Block 2049, Block 2050, Block 2051, Block 2052, Block 2053, Block 2054, Block 2055, Block 2056, Block 2057, Block 2058, Block 2059, Block 2060; Tract 117.02: Block Group 1: Block 1017, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038, Block 1039, Block 1040; Block Group 2: Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032; Block Group 3: Block 3016, Block 3017, Block 3018, Block 3022; Iredell County: Precinct Bethany: Tract 610: Block Group 2: Block 2001, Block 2002, Block 2003, Block 2010, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3009, Block 3010, Block 3011; Block Group 4: Block 4000, Block 4001, Block 4002, Block 4003, Block 4004, Block 4013; Block Group 5: Block 5000, Block 5001, Block 5007, Block 5009, Block 5010, Block 5011, Block 5012, Block 5013, Block 5014, Block 5015, Block 5016, Block 5017, Block 5018, Block 5019; Precinct Concord, Precinct Fallstown: Tract 611: Block Group 5: Block 5031, Block 5032, Block 5033; Tract 612: Block Group 1: Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1998, Block 1999; Block Group 2: Block 2017; Precinct Shiloh.

District 90: Alleghany County, Surry County: Precinct Bryan, Precinct Dobson 1, Precinct Dobson 2, Precinct Dobson 3, Precinct Elkin 1, Precinct Elkin 2, Precinct Elkin 3, Precinct Franklin, Precinct Marsh, Precinct Mt Airy 1, Precinct Mt Airy 2, Precinct Mt Airy 3, Precinct Mt Airy 4, Precinct Mt Airy 5, Precinct Mt Airy 7, Precinct Mt Airy 8, Precinct Mt Airy 9, Precinct Rockford, Precinct Stewarts Creek 1, Precinct Stewarts Creek 2.

District 91: Rockingham County: Precinct Dan Valley, Precinct Hogans, Precinct Huntsville, Precinct Ironworks: Tract 416: Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3010, Block 3011, Block 3016, Block 3017, Block 3018, Block 3019, Block 3030, Block 3031, Block 3032, Block 3033, Block 3034, Block 3035, Block 3036, Block 3037, Block 3038, Block 3039, Block 3040, Block 3991, Block 3994, Block 3995, Block 3996, Block 3997, Block 3998; Block Group 4: Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 4007, Block 4008, Block 4009, Block 4010, Block 4011, Block 4012, Block 4013, Block 4014, Block 4015, Block 4016, Block 4017, Block 4018, Block 4019, Block 4020, Block 4021, Block 4022, Block 4023, Block 4024, Block 4025, Block 4026, Block 4027, Block 4028, Block 4999; Block Group 5: Block 5009, Block 5010, Block 5020; Precinct Madison 1, Precinct Madison 2, Precinct Martins, Precinct

Mayodan, Precinct New Bethel, Precinct Simpsonville: Tract 416: Block Group 1: Block 1038; Block Group 2: Block 2017, Block 2028, Block 2034, Block 2035, Block 2997; Block Group 5: Block 5000, Block 5008; Stokes County.

District 92: Iredell County: Precinct Eagle Mills, Precinct New Hope, Precinct Olin, Precinct Sharpesburg, Precinct Union Grove; Surry County: Precinct Eldora, Precinct Longhill, Precinct Mt Airy 6, Precinct Pilot 1, Precinct Pilot 2, Precinct Shoals, Precinct Siloam, Precinct Westfield North, Precinct Westfield South; Yadkin County.

District 93: Ashe County, Watauga County.

District 94: Wilkes County.

District 95: Iredell County: Precinct Barringer, Precinct Coddle Creek 1, Precinct Coddle Creek 2, Precinct Coddle Creek 3, Precinct Coddle Creek 4, Precinct Davidson 1, Precinct Davidson 2, Precinct Fallstown: Tract 612: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1024, Block 1025, Block 1026, Block 1027; Block Group 2: Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032; Block Group 3: Block 3037, Block 3040, Block 3043, Block 3044, Block 3045, Block 3046, Block 3047, Block 3048, Block 3049, Block 3050, Block 3051, Block 3052, Block 3053; Block Group 4: Block 4003, Block 4004, Block 4005, Block 4006, Block 4007, Block 4008, Block 4009, Block 4010, Block 4011, Block 4012, Block 4013, Block 4014, Block 4015, Block 4016, Block 4017, Block 4018, Block 4020, Block 4021, Block 4022, Block 4023, Block 4024, Block 4027, Block 4028, Block 4030, Block 4031, Block 4032; Block Group 5: Block 5005, Block 5006, Block 5007, Block 5008, Block 5009, Block 5010, Block 5011, Block 5012, Block 5013, Block 5014, Block 5015, Block 5016, Block 5020, Block 5021, Block 5022, Block 5023, Block 5030, Block 5031, Block 5999; Block Group 6, Block Group 7, Block Group 8: Block 8000, Block 8001, Block 8002, Block 8003, Block 8004, Block 8005, Block 8006, Block 8007, Block 8009, Block 8010, Block 8048, Block 8049, Block 8053, Block 8054, Block 8996, Block 8999; Block Group 9: Block 9002, Block 9003, Block 9004, Block 9005, Block 9006, Block 9007, Block 9008, Block 9009, Block 9010, Block 9011; Precinct Statesville 3, Precinct Statesville 4, Precinct Statesville 5, Precinct Statesville 6: Tract 603: Block Group 2: Block 2012, Block 2013, Block 2014, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2031; Block Group 3: Block 3027, Block 3029; Block Group 4: Block 4004, Block 4005, Block 4015, Block 4016, Block 4017, Block 4018, Block 4019, Block 4020, Block 4023, Block 4024, Block 4025, Block 4026, Block 4027; Tract 612: Block Group 2: Block 2000, Block 2001, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2999; Block Group 3: Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3024, Block 3025, Block 3026, Block 3998, Block 3999.

District 96: Catawba County: Precinct Banoak, Precinct Blackburn, Precinct Brookford, Precinct Conover East, Precinct Conover West, Precinct Longview North, Precinct Longview South, Precinct Mountain View 1, Precinct Mountain View 2, Precinct Newton East, Precinct Newton North, Precinct Newton West, Precinct Sandy Ridge, Precinct Springs, Precinct St Stephens 1, Precinct St Stephens 2, Precinct Startown: Tract 111.02: Block Group 2: Block 2084, Block 2085; Block Group 3: Block 3039, Block 3040; Tract 117.01: Block Group 1: Block 1049, Block 1050, Block 1051, Block 1052; Block Group 2: Block 2002, Block 2003, Block 2004, Block



2005, Block 2006, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2036, Block 2037, Block 2038, Block 2039, Block 2040, Block 2041, Block 2042, Block 2043, Block 2044, Block 2045; Tract 117.02: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1018, Block 1019; Precinct Sweetwater: Tract 110: Block Group 3: Block 3002, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3024, Block 3025, Block 3026, Block 3027, Block 3028, Block 3029, Block 3032, Block 3033, Block 3035, Block 3036, Block 3037, Block 3038, Block 3039, Block 3040, Block 3041, Block 3042, Block 3043, Block 3044, Block 3045, Block 3046, Block 3047, Block 3048, Block 3049, Block 3050, Block 3051, Block 3052, Block 3053, Block 3054, Block 3055, Block 3056, Block 3057, Block 3058; Block Group 4: Block 4000, Block 4001, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 4007, Block 4008, Block 4009, Block 4010, Block 4011, Block 4012, Block 4013, Block 4014, Block 4015, Block 4016, Block 4017, Block 4020, Block 4021, Block 4022, Block 4039, Block 4040, Block 4041, Block 4042, Block 4043, Block 4044, Block 4045, Block 4046, Block 4047, Block 4048, Block 4049, Block 4050, Block 4051, Block 4052, Block 4053, Block 4054, Block 4055, Block 4056, Block 4057, Block 4058, Block 4059, Block 4060, Block 4061, Block 4062, Block 4063, Block 4064, Block 4065, Block 4066, Block 4067, Block 4068, Block 4069, Block 4070, Block 4071, Block 4072, Block 4073, Block 4074, Block 4075, Block 4076, Block 4077, Block 4078, Block 4079, Block 4080, Block 4081, Block 4082, Block 4083, Block 4084; Tract 111.02: Block Group 1: Block 1007, Block 1008, Block 1009, Block 1010, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1021; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2081, Block 2082, Block 2083, Block 2086, Block 2087; Block Group 3: Block 3000, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3024, Block 3025, Block 3026, Block 3027, Block 3028, Block 3029, Block 3030, Block 3031, Block 3032, Block 3033, Block 3034, Block 3035, Block 3036, Block 3037, Block 3038, Block 3041; Tract 117.01: Block Group 1: Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026.

District 97: Lincoln County.

District 98: Mecklenburg County: Precinct 127, Precinct 128, Precinct 133, Precinct 134: Tract 62.07: Block Group 2: Block 2010, Block 2011, Block 2012, Block 2015, Block 2016; Precinct 142, Precinct 143, Precinct 145, Precinct 202, Precinct 206, Precinct 207: Tract 62.06: Block Group 1: Block 1034, Block 1035, Block 1046, Block 1047; Tract 63.01: Block Group 1: Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1025, Block 1027, Block 1028, Block 1029, Block 1030; Block Group 2: Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block

2019; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007; Precinct 208, Precinct 209: Tract 61.01: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1007, Block 1008, Block 1009, Block 1010, Block 1012, Block 1013, Block 1014, Block 1036, Block 1037, Block 1038, Block 1039, Block 1040, Block 1041, Block 1042, Block 1069, Block 1996, Block 1997, Block 1998, Block 1999; Tract 62.07: Block Group 1: Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038, Block 1039, Block 1040, Block 1989, Block 1990, Block 1991, Block 1992, Block 1993, Block 1994, Block 1995, Block 1996, Block 1997; Block Group 2: Block 2017, Block 2018, Block 2019, Block 2045, Block 2046, Block 2047, Block 2048, Block 2049, Block 2050, Block 2051, Block 2052, Block 2053, Block 2054, Block 2055, Block 2056, Block 2057, Block 2058, Block 2059, Block 2060, Block 2061, Block 2062, Block 2063, Block 2064, Block 2065, Block 2066, Block 2067, Block 2068, Block 2069, Block 2070, Block 2071, Block 2072, Block 2073, Block 2074; Precinct 211: Tract 61.01: Block Group 1: Block 1004, Block 1005, Block 1006, Block 1011, Block 1062, Block 1063; Precinct 214, Precinct 223: Tract 60.03: Block Group 1: Block 1000, Block 1001; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2028, Block 2029, Block 2050, Block 2051, Block 2997, Block 2998, Block 2999; Tract 61.01: Block Group 1: Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1043, Block 1044, Block 1045, Block 1046, Block 1047, Block 1048, Block 1049, Block 1050, Block 1051, Block 1052, Block 1053, Block 1994, Block 1995; Precinct 238, Precinct 239, Precinct 240, Precinct 241: Tract 63.02: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038, Block 1039, Block 1040, Block 1041, Block 1042, Block 1043, Block 1044, Block 1045, Block 1046, Block 1047, Block 1048, Block 1049, Block 1050, Block 1051, Block 1052, Block 1053, Block 1999; Precinct 242.

District 99: Mecklenburg County: Precinct 004, Precinct 082: Tract 53.04: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007; Block Group 3; Precinct 104, Precinct 105, Precinct 107, Precinct 123, Precinct 126, Precinct 132: Tract 15.05: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034; Precinct 134: Tract 62.06: Block Group 1: Block 1048, Block 1049;

Tract 62.07: Block Group 2: Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2035, Block 2036, Block 2037, Block 2038, Block 2039, Block 2040, Block 2041, Block 2042, Block 2043, Block 2044, Block 2077, Block 2078, Block 2079; Block Group 3: Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3028, Block 3029, Block 3030, Block 3031, Block 3032, Block 3033, Block 3034, Block 3035, Block 3041; Precinct 135: Tract 54.02: Block Group 1: Block 1000, Block 1001, Block 1002; Tract 55.04: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1032, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038, Block 1039, Block 1040, Block 1041, Block 1042, Block 1043, Block 1044, Block 1045, Block 1046, Block 1047, Block 1048, Block 1049, Block 1050, Block 1051, Block 1052, Block 1053, Block 1054, Block 1055, Block 1056, Block 1057, Block 1058, Block 1059, Block 1060, Block 1061, Block 1062, Block 1063, Block 1064, Block 1065, Block 1066, Block 1067, Block 1068, Block 1069, Block 1070, Block 1071, Block 1072, Block 1999; Tract 61.02: Block Group 1: Block 1000, Block 1001, Block 1002; Precinct 141, Precinct 204, Precinct 205, Precinct 207: Tract 63.01: Block Group 2: Block 2013, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027; Block Group 3: Block 3008, Block 3009; Precinct 209: Tract 62.07: Block Group 3: Block 3023, Block 3024, Block 3025, Block 3026, Block 3027, Block 3048; Precinct 211: Tract 55.03: Block Group 1: Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1060, Block 1061, Block 1062, Block 1063, Block 1064, Block 1065, Block 1066; Tract 61.02: Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3023, Block 3024, Block 3025, Block 3026, Block 3027, Block 3028, Block 3029, Block 3030, Block 3031, Block 3032; Precinct 212, Precinct 237, Precinct 241: Tract 62.07: Block Group 2: Block 2000, Block 2001, Block 2075, Block 2076, Block 2080, Block 2081; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3036, Block 3037, Block 3038, Block 3039, Block 3040, Block 3042, Block 3043, Block 3044, Block 3045, Block 3046, Block 3047; Tract 63.02: Block Group 1: Block 1019; Block Group 2.

District 100: Mecklenburg County: Precinct 005, Precinct 006, Precinct 007, Precinct 033, Precinct 034, Precinct 045, Precinct 062, Precinct 063, Precinct 064, Precinct 066: Tract 20.02: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1008; Precinct 084, Precinct 085, Precinct 095, Precinct 096, Precinct 099, Precinct 106: Tract 20.03: Block Group 1: Block 1000, Block 1002, Block 1008, Block 1014, Block 1015; Precinct 108, Precinct 117, Precinct 124, Precinct 125, Precinct 130, Precinct 217: Tract 30.15: Block Group 3: Block 3000, Block 3001, Block 3007; Tract 58.12: Block Group 1: Block 1001, Block 1002, Block 1003, Block 1005, Block 1011, Block 1012.

District 101: Mecklenburg County: Precinct 011, Precinct 012, Precinct 026, Precinct 027, Precinct 042: Tract 53.03: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1005, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014; Precinct 053: Tract 40: Block Group 5: Block 5000, Block 5001; Tract 59.01: Block Group 2: Block 2025, Block 2027; Precinct 054, Precinct 055, Precinct 056, Precinct 079, Precinct 080, Precinct 081, Precinct 089, Precinct 135: Tract 55.04: Block Group 1: Block 1073; Tract 61.02: Block Group 1: Block 1003, Block 1013, Block 1014, Block 1015; Precinct 200: Tract 59.01: Block Group 2: Block 2012, Block 2013, Block 2030, Block 2031, Block 2035, Block 2036; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3036, Block 3037, Block 3038, Block 3995, Block 3996, Block 3997, Block 3999; Precinct 210, Precinct 211: Tract 61.02: Block Group 3: Block 3021, Block 3022, Block 3040; Precinct 213, Precinct 222, Precinct 223: Tract 60.03: Block Group 1: Block 1002, Block 1003, Block 1004, Block 1005, Block 1006; Block Group 2: Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2035, Block 2036, Block 2037, Block 2038, Block 2039, Block 2040, Block 2996; Tract 61.01: Block Group 2: Block 2005; Precinct 224.

District 102: Mecklenburg County: Precinct 001, Precinct 002, Precinct 003, Precinct 013, Precinct 014, Precinct 015, Precinct 017, Precinct 028, Precinct 029, Precinct 030, Precinct 035: Tract 22: Block Group 1, Block Group 2: Block 2000, Block 2001; Precinct 042: Tract 53.03: Block Group 1: Block 1003, Block 1004, Block 1006; Block Group 2, Block Group 3: Block 3001, Block 3002, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021; Block Group 4: Block 4002, Block 4003, Block 4004, Block 4007, Block 4008, Block 4009, Block 4010, Block 4011; Block Group 5: Block 5012; Precinct 043, Precinct 044, Precinct 046, Precinct 060, Precinct 061, Precinct 082: Tract 53.03: Block Group 3: Block 3000, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009; Block Group 4: Block 4000, Block 4001, Block 4005, Block 4006; Block Group 5: Block 5000, Block 5001, Block 5002, Block 5003, Block 5004, Block 5005, Block 5006, Block 5007, Block 5008, Block 5009, Block 5010, Block 5011, Block 5013; Tract 53.04: Block Group 1: Block 1008; Block Group 2; Precinct 109, Precinct 132: Tract 15.05: Block Group 1: Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029; Tract 53.03: Block Group 6: Block 6000, Block 6001.

District 103: Mecklenburg County: Precinct 083, Precinct 094, Precinct 102, Precinct 115, Precinct 116, Precinct 136, Precinct 201, Precinct 203, Precinct 215, Precinct 216, Precinct 217: Tract 58.12: Block Group 1: Block 1013, Block 1014, Block 1015, Block 1016, Block 1017; Block Group 2: Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2035, Block 2036, Block 2037, Block 2038; Tract 58.13: Block Group 1: Block 1000, Block 1001, Block 1002; Precinct 218, Precinct 219, Precinct 220, Precinct 221, Precinct 233, Precinct 234, Precinct 235, Precinct 236.

District 104: Mecklenburg County: Precinct 008: Tract 27: Block Group 4: Block 4007, Block 4008, Block 4009; Block Group 5: Block 5013, Block 5014; Precinct 019, Precinct 035: Tract 22: Block Group 2: Block 2002, Block 2004, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011; Precinct 036, Precinct 047: Tract 20.02: Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012; Tract 22: Block Group 3; Precinct 048, Precinct 049, Precinct 057, Precinct 065, Precinct 066: Tract 20.02: Block Group 1: Block 1004, Block 1005, Block 1006, Block 1007, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026; Precinct 067, Precinct 068, Precinct 069: Tract 30.13: Block Group 1: Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1019, Block 1020, Block 1021, Block 1022; Precinct 070, Precinct 071, Precinct 072, Precinct 073, Precinct 074, Precinct 075, Precinct 076, Precinct 086, Precinct 092, Precinct 093, Precinct 101, Precinct 106: Tract 20.03: Block Group 1: Block 1001, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010; Precinct 110, Precinct 111, Precinct 114, Precinct 119, Precinct 129: Tract 58.07: Block Group 4: Block 4009, Block 4011, Block 4012, Block 4013, Block 4014, Block 4018, Block 4019, Block 4020, Block 4021, Block 4022, Block 4023, Block 4024, Block 4025, Block 4026.

District 105: Mecklenburg County: Precinct 069: Tract 30.13: Block Group 1: Block 1000, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1023, Block 1024; Block Group 2; Precinct 087: Tract 58.06: Block Group 5: Block 5009, Block 5010, Block 5011; Block Group 6: Block 6000, Block 6005, Block 6006; Tract 58.08: Block Group 1: Block 1002, Block 1003, Block 1004, Block 1005; Block Group 2; Precinct 088, Precinct 090, Precinct 091, Precinct 100, Precinct 103, Precinct 112, Precinct 113, Precinct 118, Precinct 121, Precinct 131, Precinct 137, Precinct 139, Precinct 140, Precinct 144, Precinct 226, Precinct 227, Precinct 231: Tract 58.18: Block Group 2: Block 2009, Block 2010, Block 2011, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024; Precinct 232.

District 106: Mecklenburg County: Precinct 008: Tract 27: Block Group 2, Block Group 3: Block 3000, Block 3001, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3015; Block Group 4: Block 4000, Block 4005, Block 4006; Block Group 5: Block 5000, Block 5001, Block 5002, Block 5006, Block 5007, Block 5008, Block 5009, Block 5010, Block 5011; Precinct 009, Precinct 010, Precinct 018, Precinct 020, Precinct 021, Precinct 032, Precinct 037, Precinct 038, Precinct 047: Tract 22: Block Group 4; Precinct 050, Precinct 051, Precinct 052, Precinct 058, Precinct 059, Precinct 078, Precinct 098, Precinct 120, Precinct 138, Precinct 77, Precinct 97.

District 107: Mecklenburg County: Precinct 016, Precinct 022, Precinct 023, Precinct 024, Precinct 025, Precinct 031, Precinct 039, Precinct 040, Precinct 041, Precinct 053: Tract 40: Block Group 2: Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block

3009, Block 3010, Block 3011, Block 3012, Block 3013; Block Group 4, Block Group 5: Block 5002, Block 5003, Block 5004, Block 5005, Block 5006, Block 5007, Block 5008, Block 5009, Block 5010, Block 5011, Block 5012, Block 5013, Block 5014, Block 5015, Block 5016, Block 5017, Block 5018, Block 5019, Block 5020, Block 5021; Tract 43.01: Block Group 3: Block 3021, Block 3022; Block Group 4; Precinct 087: Tract 58.06: Block Group 4: Block 4002, Block 4003, Block 4005, Block 4006, Block 4007, Block 4008, Block 4009, Block 4010, Block 4011, Block 4012; Block Group 5: Block 5000, Block 5001, Block 5002, Block 5003, Block 5004, Block 5005, Block 5006, Block 5007, Block 5008, Block 5012; Block Group 6: Block 6001, Block 6002, Block 6003, Block 6004; Precinct 122, Precinct 129: Tract 58.06: Block Group 4: Block 4000, Block 4001, Block 4004, Block 4013, Block 4014, Block 4015, Block 4016, Block 4017, Block 4018, Block 4019; Block Group 5: Block 5013; Tract 58.07: Block Group 1: Block 1015, Block 1016, Block 1017; Block Group 3: Block 3005, Block 3006, Block 3007, Block 3009, Block 3010; Block Group 4: Block 4007, Block 4008, Block 4010, Block 4015, Block 4016, Block 4017, Block 4027, Block 4028, Block 4029; Precinct 200: Tract 59.01: Block Group 3: Block 3024, Block 3025, Block 3026, Block 3027, Block 3028, Block 3029, Block 3030, Block 3031, Block 3032, Block 3033, Block 3993, Block 3994, Block 3998; Block Group 4; Precinct 225, Precinct 228, Precinct 229, Precinct 230, Precinct 231: Tract 58.06: Block Group 3; Tract 58.18: Block Group 2: Block 2012, Block 2013, Block 2014; Precinct 243.

District 108: Gaston County: Precinct Ashbrook, Precinct Belmont 1, Precinct Belmont 2, Precinct Belmont 3, Precinct Catawba Heights, Precinct Cramerton, Precinct Flint Grove: Tract 313.01: Block Group 1: Block 1023, Block 1024; Tract 313.02: Block Group 2: Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025; Tract 314: Block Group 1: Block 1007; Block Group 3: Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021; Block Group 4: Block 4001, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 4007, Block 4008, Block 4009, Block 4010, Block 4011, Block 4012, Block 4013, Block 4014, Block 4016, Block 4019, Block 4020, Block 4021, Block 4022, Block 4023, Block 4024, Block 4025, Block 4026, Block 4029, Block 4030; Tract 321: Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3033, Block 3034; Precinct Gardner Park, Precinct Grier, Precinct Lowell, Precinct Lucia, Precinct Mcadenville, Precinct Mt Holly 1, Precinct Mt Holly 2, Precinct New Hope: Tract 322: Block Group 3: Block 3010, Block 3011; Tract 325.04: Block Group 3: Block 3017, Block 3025, Block 3026, Block 3028, Block 3029; Precinct Ranlo, Precinct Sherwood, Precinct Southpoint: Tract 324: Block Group 4: Block 4000, Block 4001, Block 4021, Block 4022, Block 4023, Block 4024, Block 4025, Block 4026, Block 4027, Block 4028, Block 4996, Block 4997; Block Group 5: Block 5012, Block 5013, Block 5014, Block 5015, Block 5016, Block 5017, Block 5018, Block 5019, Block 5020, Block 5021, Block 5022, Block 5023, Block 5024, Block 5025, Block 5026, Block 5027, Block 5028, Block 5029, Block 5999; Block Group 6: Block 6010, Block 6011, Block 6012, Block 6013, Block 6016, Block 6017, Block 6018, Block 6020, Block 6022; Precinct Stanley 1, Precinct Stanley 2.

District 109: Gaston County: Precinct Armstrong, Precinct Crowders Mountain, Precinct Forest Heights, Precinct Gaston Day, Precinct Health Center, Precinct Highland, Precinct Myrtle, Precinct New Hope: Tract 325.02, Tract 325.04: Block Group 1: Block 1003; Block Group 3: Block 3010, Block 3013, Block 3015, Block 3016, Block 3027, Block 3030, Block 3031, Block 3032, Block 3033, Block 3034, Block 3035, Block 3037, Block 3038, Block 3039, Block 3040, Block 3041, Block 3042, Block 3043, Block 3044, Block 3995; Precinct Pleasant Ridge, Precinct Robinson 1, Precinct Robinson 2, Precinct South Gastonia, Precinct Southpoint: Tract 324: Block Group 6: Block 6000, Block 6001, Block 6002, Block 6003, Block 6004, Block 6005, Block 6006, Block 6007, Block 6008, Block 6009, Block 6014, Block 6015, Block 6019, Block 6021, Block 6023, Block 6024, Block 6025, Block 6026, Block 6027, Block 6028, Block 6029, Block 6030, Block 6031, Block 6032, Block 6033, Block 6034, Block 6035, Block 6036, Block 6997, Block 6998, Block 6999; Precinct Union, Precinct Victory, Precinct York Chester.

District 110: Cleveland County: Precinct Casar, Precinct Fallston, Precinct Lawndale, Precinct Mulls, Precinct Oak Grove: Tract 9503: Block Group 3: Block 3000, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3028, Block 3029, Block 3030; Block Group 4: Block 4004, Block 4005, Block 4006, Block 4007, Block 4008, Block 4009, Block 4011; Block Group 5: Block 5005, Block 5006, Block 5007, Block 5018; Block Group 6: Block 6000, Block 6001, Block 6002, Block 6003, Block 6004, Block 6005, Block 6006, Block 6007, Block 6008, Block 6009, Block 6010, Block 6011, Block 6012, Block 6013, Block 6016, Block 6018, Block 6019; Precinct Polkville, Precinct Waco; Gaston County: Precinct Alexis, Precinct Bessemer City 1, Precinct Bessemer City 2, Precinct Cherryville 1, Precinct Cherryville 2, Precinct Cherryville 3, Precinct Dallas 1, Precinct Dallas 2, Precinct Flint Grove: Tract 314: Block Group 2: Block 2000, Block 2001, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013; Block Group 5: Block 5006, Block 5007, Block 5009, Block 5010, Block 5011, Block 5012; Precinct High Shoals, Precinct Landers Chapel, Precinct Tryon, Precinct Wood Hill.

District 111: Cleveland County: Precinct Bethware, Precinct Boiling Springs, Precinct Grover, Precinct Holly Springs, Precinct Kings Mountain 1, Precinct Kings Mountain 2, Precinct Kings Mountain 3, Precinct Kings Mountain 4, Precinct Oak Grove: Tract 9503: Block Group 5: Block 5008, Block 5009, Block 5010, Block 5011, Block 5012, Block 5013, Block 5014, Block 5015, Block 5016; Block Group 6: Block 6014, Block 6015, Block 6017; Tract 9506: Block Group 1: Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009; Precinct Rippy, Precinct Shanghai, Precinct Shelby 1, Precinct Shelby 2, Precinct Shelby 3, Precinct Shelby 4, Precinct Shelby 5, Precinct Shelby 6, Precinct Shelby 7, Precinct Shelby 8.

District 112: Cleveland County: Precinct Kingstown, Precinct Lattimore, Precinct Mooresboro-Young; Rutherford County.

District 113: Henderson County: Precinct Armory, Precinct Atkinson, Precinct Crab Creek, Precinct East Flat Rock, Precinct Etowah South, Precinct Flat Rock, Precinct Green River, Precinct Raven Rock; Polk County, Transylvania County.

District 114: Buncombe County: Precinct Asheville 02, Precinct Asheville 03, Precinct Asheville 04, Precinct Asheville 11, Precinct Asheville 12, Precinct Asheville 13, Precinct Asheville 14: Tract 2: Block Group 2: Block 2999; Tract 3: Block Group 1: Block 1994, Block 1995, Block 1996; Tract 9: Block Group 4: Block 4999; Tract 10: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1025, Block 1026, Block 1027, Block 1999; Tract 11: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026; Tract 12: Block Group 1: Block 1000, Block 1001; Tract 13: Block Group 1: Block 1000, Block 1001; Tract 14: Block Group 1: Block 1002, Block 1003, Block 1009, Block 1011, Block 1012, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1999; Block Group 2, Block Group 3: Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3997, Block 3998; Block Group 4: Block 4012, Block 4013, Block 4015, Block 4016; Block Group 5: Block 5012, Block 5013, Block 5014, Block 5015; Precinct Asheville 15, Precinct Asheville 16, Precinct Asheville 22, Precinct Asheville 26, Precinct Asheville 27, Precinct Asheville 28, Precinct Flat Creek, Precinct French Broad, Precinct Ivy 1 & 2, Precinct Leicester 1, Precinct Leicester 2 & Sandy Mush, Precinct North Buncombe, Precinct Reems Creek, Precinct Weaverville, Precinct West Buncombe 1: Tract 25.01: Block Group 5: Block 5044, Block 5045, Block 5046; Tract 26.01: Block Group 2: Block 2013, Block 2014, Block 2015, Block 2046, Block 2047, Block 2048, Block 2049; Tract 26.02: Block Group 1: Block 1021; Block Group 2: Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2024, Block 2025; Block Group 3: Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015; Block Group 4: Block 4004, Block 4006, Block 4007; Precinct Woodland Hills.

District 115: Buncombe County: Precinct Asheville 01, Precinct Asheville 06, Precinct Asheville 07, Precinct Asheville 08, Precinct Asheville 09, Precinct Asheville 10, Precinct Asheville 17, Precinct Asheville 20, Precinct Asheville 21, Precinct Asheville 23, Precinct Asheville 25, Precinct Asheville 29: Tract 22.02: Block Group 1: Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018; Precinct Black Mountain 1, Precinct Black Mountain 2, Precinct Black Mountain 3, Precinct Black Mountain 4, Precinct Black Mountain 5, Precinct Broad River, Precinct Fairview 1, Precinct Fairview 2, Precinct Limestone 4: Tract 21.02: Block Group 1: Block 1031; Block Group 2: Block 2043; Tract 22.02: Block Group 1: Block 1001, Block 1002, Block 1005, Block 1006, Block 1009, Block 1010, Block 1019, Block 1020, Block 1021; Tract 32: Block Group 1: Block 1030, Block 1031, Block 1032; Block Group 2: Block 2019, Block 2020, Block 2023, Block 2024, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2035, Block 2036, Block 2039, Block 2041, Block 2043; Block Group 3: Block 3011; Precinct Reynolds, Precinct Riceville 1 & Swannanoa 2, Precinct Riceville 2 & Swannanoa 3, Precinct Swannanoa 1.



District 116: Buncombe County: Precinct Asheville 05, Precinct Asheville 14: Tract 14: Block Group 5: Block 5002, Block 5006, Block 5007, Block 5008, Block 5016, Block 5017, Block 5018, Block 5019, Block 5020, Block 5021; Precinct Asheville 18, Precinct Asheville 19, Precinct Asheville 24, Precinct Asheville 29: Tract 22.02: Block Group 2: Block 2009, Block 2010, Block 2011; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013; Precinct Averys Creek, Precinct Biltmore, Precinct Hazel 1, Precinct Hazel 2, Precinct Limestone 1, Precinct Limestone 2, Precinct Limestone 3, Precinct Limestone 4: Tract 22.02: Block Group 1: Block 1022, Block 1023, Block 1024, Block 1025; Tract 32: Block Group 3: Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3030, Block 3031, Block 3032, Block 3033, Block 3034, Block 3035, Block 3036, Block 3037, Block 3038, Block 3039, Block 3040, Block 3041, Block 3042, Block 3043; Precinct Lower Hominy 1, Precinct Lower Hominy 2, Precinct Lower Hominy 3, Precinct Upper Hominy 1 & 3, Precinct Upper Hominy 2, Precinct West Buncombe 1: Tract 14: Block Group 5: Block 5005; Tract 26.02: Block Group 2: Block 2000, Block 2027, Block 2028; Block Group 3: Block 3000, Block 3001, Block 3002; Block Group 6: Block 6007, Block 6008, Block 6009, Block 6010, Block 6011, Block 6012, Block 6013, Block 6014, Block 6015, Block 6016, Block 6017, Block 6018; Block Group 7: Block 7000, Block 7001, Block 7003, Block 7004, Block 7005, Block 7006, Block 7010, Block 7017, Block 7999; Precinct West Buncombe 2, Precinct Woodfin.

District 117: Henderson County: Precinct Bat Cave, Precinct Blue Ridge North, Precinct Blue Ridge South, Precinct Brickton, Precinct Clear Creek, Precinct Edneyville, Precinct Etowah Valley, Precinct Fletcher, Precinct Grimesdale, Precinct Hendersonville 1, Precinct Hendersonville 2, Precinct Hendersonville 3, Precinct Hoopers Creek, Precinct Horse Shoe, Precinct Laurel Park, Precinct Long John Mountain, Precinct Mills River North, Precinct Mills River South, Precinct Moores Grove, Precinct Northeast, Precinct Northwest, Precinct Park Ridge, Precinct Pisgah View, Precinct Rugby, Precinct Southeast, Precinct Southwest.

District 118: Haywood County: Precinct Allens Creek: Tract 9808: Block Group 2: Block 2020, Block 2021, Block 2022, Block 2024; Tract 9811: Block Group 2: Block 2023, Block 2054, Block 2055, Block 2056, Block 2074, Block 2075, Block 2076, Block 2078, Block 2079, Block 2080, Block 2081, Block 2082, Block 2083, Block 2084, Block 2085; Tract 9812: Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3024, Block 3025, Block 3026, Block 3027, Block 3028, Block 3029, Block 3030, Block 3031, Block 3032, Block 3033, Block 3034, Block 3035, Block 3036, Block 3037, Block 3038, Block 3039, Block 3040, Block 3041, Block 3042, Block 3044; Block Group 4: Block 4000, Block 4001, Block 4002, Block 4017, Block 4018, Block 4023; Block Group 5: Block 5014, Block 5015, Block 5034, Block 5035, Block 5036, Block 5037; Precinct Beaverdam 1, Precinct Beaverdam 2, Precinct Beaverdam 3, Precinct Beaverdam 4, Precinct Beaverdam 5/6, Precinct Beaverdam 7, Precinct Big Creek, Precinct Clyde North, Precinct Clyde South, Precinct Crabtree, Precinct Fines Creek 1, Precinct Fines Creek 2, Precinct Hazelwood, Precinct Iron Duff, Precinct Ivy Hill: Tract 9801: Block Group 2: Block 2056, Block 2057, Block 2058; Tract 9806: Block Group 1: Block 1037, Block 1041, Block 1042, Block 1073, Block 1074, Block 1075,

Block 1076, Block 1077, Block 1078, Block 1079, Block 1080, Block 1081, Block 1082, Block 1083, Block 1084, Block 1085, Block 1086; Block Group 4: Block 4030, Block 4031, Block 4032, Block 4033, Block 4034, Block 4035, Block 4036, Block 4037, Block 4055, Block 4056, Block 4057, Block 4058, Block 4059, Block 4060, Block 4066; Tract 9808: Block Group 1: Block 1003, Block 1010; Precinct Jonathan Creek, Precinct Lake Junaluska, Precinct Pigeon: Tract 9811: Block Group 2: Block 2009, Block 2010, Block 2013, Block 2014, Block 2015, Block 2016; Tract 9812: Block Group 5: Block 5000; Tract 9813: Block Group 1: Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1041; Block Group 2: Block 2019, Block 2020, Block 2037, Block 2039, Block 2040; Block Group 3: Block 3015, Block 3016, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3024, Block 3025, Block 3026, Block 3027, Block 3028, Block 3029, Block 3030, Block 3031, Block 3032, Block 3033, Block 3034, Block 3035, Block 3036, Block 3041, Block 3042, Block 3058, Block 3059, Block 3060, Block 3068, Block 3069, Block 3070, Block 3071, Block 3072, Block 3073, Block 3074, Block 3075, Block 3076, Block 3077, Block 3078, Block 3079, Block 3080, Block 3081, Block 3082, Block 3083, Block 3084, Block 3085, Block 3086, Block 3087, Block 3088, Block 3089, Block 3090, Block 3091, Block 3092, Block 3093, Block 3094, Block 3095, Block 3096, Block 3097, Block 3098, Block 3099, Block 3100; Block Group 4: Block 4001, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 4007, Block 4008, Block 4009, Block 4010, Block 4011, Block 4012, Block 4021, Block 4022, Block 4023, Block 4024, Block 4025, Block 4026, Block 4027, Block 4028, Block 4029, Block 4030, Block 4036, Block 4037, Block 4038, Block 4039, Block 4048, Block 4049, Block 4050; Block Group 5: Block 5000, Block 5001, Block 5002, Block 5003, Block 5004, Block 5005; Precinct Pigeon Center, Precinct Waynesville Center, Precinct Waynesville East, Precinct Waynesville South 1: Tract 9808: Block Group 1: Block 1011, Block 1013, Block 1025, Block 1026, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038, Block 1042, Block 1049, Block 1050, Block 1051, Block 1052, Block 1053, Block 1054, Block 1055, Block 1056, Block 1057, Block 1058, Block 1059, Block 1060, Block 1061, Block 1067, Block 1068, Block 1069, Block 1070, Block 1071, Block 1072, Block 1073, Block 1074, Block 1075; Block Group 2: Block 2002; Tract 9809: Block Group 1: Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037; Block Group 2: Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2035, Block 2036, Block 2037; Tract 9811: Block Group 1: Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1035, Block 1036, Block 1037, Block 1038, Block 1040, Block 1041, Block 1042; Tract 9812: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006; Precinct Waynesville South 2, Precinct Waynesville West, Precinct White Oak; Madison County, Yancey County: Precinct Prices Creek: Tract 9604: Block Group 3: Block 3038, Block 3039, Block 3040, Block 3052, Block 3053, Block 3061, Block 3062, Block 3066, Block 3067, Block 3068, Block 3069, Block 3070, Block 3071, Block 3072, Block 3073, Block 3074, Block 3075, Block 3081, Block 3082, Block 3083, Block 3084, Block 3085, Block 3086, Block 3087, Block 3088, Block 3089, Block 3090, Block 3091, Block 3092, Block 3093.

District 119: Haywood County: Precinct Allens Creek: Tract 9811: Block Group 2: Block 2020, Block 2021, Block 2022, Block 2086, Block 2087; Tract 9812: Block Group 3: Block 3021, Block 3022, Block 3023, Block 3043; Block Group 4: Block 4003, Block 4004, Block 4005, Block 4006, Block 4007, Block 4109, Block 4110, Block 4111, Block 4112, Block 4113, Block 4114, Block 4115, Block 4116, Block 4117, Block 4118, Block 4119, Block 4120, Block 4121, Block 4122, Block 4123, Block 4124, Block 4125, Block 4126, Block 4127, Block 4128, Block 4129, Block 4130, Block 4131, Block 4132, Block 4133, Block 4134, Block 4135; Block Group 5: Block 5001, Block 5003, Block 5004, Block 5005, Block 5006, Block 5007, Block 5008, Block 5009, Block 5010, Block 5011, Block 5012, Block 5013, Block 5016, Block 5017, Block 5018, Block 5019, Block 5020, Block 5021, Block 5022, Block 5023, Block 5024, Block 5025, Block 5026, Block 5027, Block 5028, Block 5029, Block 5030, Block 5032, Block 5033, Block 5038, Block 5039, Block 5040, Block 5041; Tract 9813: Block Group 4: Block 4057, Block 4058; Precinct Cecil, Precinct East Fork, Precinct Ivy Hill: Tract 9801: Block Group 2: Block 2053, Block 2054, Block 2055, Block 2059; Tract 9806: Block Group 4: Block 4038, Block 4039, Block 4040, Block 4041; Tract 9807: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038, Block 1039, Block 1040, Block 1041, Block 1042, Block 1043, Block 1044, Block 1045, Block 1046, Block 1047, Block 1048, Block 1049, Block 1050, Block 1051, Block 1052, Block 1053, Block 1054, Block 1055, Block 1056, Block 1057, Block 1058, Block 1059, Block 1060, Block 1061, Block 1062, Block 1063, Block 1064, Block 1065, Block 1066, Block 1067, Block 1068, Block 1069, Block 1070, Block 1071, Block 1072, Block 1073, Block 1074, Block 1075, Block 1076, Block 1077, Block 1078, Block 1079, Block 1080, Block 1081, Block 1082, Block 1083, Block 1084, Block 1085, Block 1086, Block 1087, Block 1088, Block 1089, Block 1090, Block 1091, Block 1092, Block 1093, Block 1094, Block 1095, Block 1096, Block 1097, Block 1098, Block 1099, Block 1100, Block 1101, Block 1102, Block 1103, Block 1104, Block 1105, Block 1106, Block 1107, Block 1108, Block 1109, Block 1110, Block 1111, Block 1112, Block 1113, Block 1114, Block 1115, Block 1116, Block 1117, Block 1118, Block 1119, Block 1120, Block 1121, Block 1122, Block 1123, Block 1124, Block 1125, Block 1126, Block 1127, Block 1128, Block 1129, Block 1130, Block 1131, Block 1132, Block 1133, Block 1134, Block 1135, Block 1136, Block 1137, Block 1138, Block 1139, Block 1140, Block 1141, Block 1142, Block 1143, Block 1144, Block 1145, Block 1146, Block 1147, Block 1148, Block 1149, Block 1150, Block 1151, Block 1152, Block 1153, Block 1154, Block 1155, Block 1156, Block 1157, Block 1158, Block 1159, Block 1160, Block 1161, Block 1162, Block 1163, Block 1164, Block 1165, Block 1166, Block 1167, Block 1168, Block 1169, Block 1170; Block Group 2, Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3024, Block 3025, Block 3026, Block 3027, Block 3028, Block 3029, Block 3030, Block 3031, Block 3032, Block 3033, Block 3034, Block 3035, Block 3036, Block 3037, Block 3038, Block 3039, Block

3040, Block 3041, Block 3042, Block 3043, Block 3044, Block 3045, Block 3046, Block 3047, Block 3048, Block 3049, Block 3050, Block 3051, Block 3052, Block 3053, Block 3054, Block 3055, Block 3056, Block 3057, Block 3058, Block 3059, Block 3060, Block 3061, Block 3062, Block 3063, Block 3064, Block 3065, Block 3066, Block 3067, Block 3068, Block 3069, Block 3070, Block 3071, Block 3072, Block 3073, Block 3074, Block 3075, Block 3076, Block 3077, Block 3078, Block 3079, Block 3080, Block 3081, Block 3082, Block 3083, Block 3084, Block 3085, Block 3086, Block 3087, Block 3088, Block 3089, Block 3090, Block 3091, Block 3092, Block 3093, Block 3094, Block 3095, Block 3096, Block 3097, Block 3098, Block 3099, Block 3100, Block 3101, Block 3102, Block 3103, Block 3104, Block 3105, Block 3106, Block 3107, Block 3108, Block 3109, Block 3110, Block 3111, Block 3112, Block 3113, Block 3114, Block 3115, Block 3116, Block 3117, Block 3118, Block 3119, Block 3120, Block 3121, Block 3122, Block 3123, Block 3124, Block 3125, Block 3126, Block 3127, Block 3128, Block 3134; Tract 9808: Block Group 1: Block 1014, Block 1019, Block 1021, Block 1083; Precinct Pigeon: Tract 9813: Block Group 1: Block 1038, Block 1039; Block Group 4: Block 4000, Block 4031, Block 4032, Block 4033, Block 4034, Block 4035, Block 4040, Block 4041, Block 4042, Block 4043, Block 4044, Block 4045, Block 4046, Block 4047, Block 4051, Block 4052, Block 4056, Block 4086, Block 4087, Block 4088, Block 4089, Block 4090, Block 4091, Block 4092, Block 4093, Block 4154, Block 4155, Block 4156, Block 4161; Block Group 5: Block 5006, Block 5007, Block 5008, Block 5009, Block 5010, Block 5011, Block 5012, Block 5013, Block 5014, Block 5015, Block 5016, Block 5017; Block Group 6: Block 6020, Block 6021, Block 6022, Block 6025, Block 6026; Precinct Saunook, Precinct Waynesville South 1: Tract 9807: Block Group 3: Block 3129, Block 3130, Block 3131, Block 3132; Tract 9808: Block Group 1: Block 1012, Block 1015, Block 1016, Block 1017, Block 1018, Block 1020, Block 1022, Block 1023, Block 1024, Block 1027, Block 1039, Block 1040, Block 1041, Block 1043, Block 1044, Block 1045, Block 1046, Block 1047, Block 1048, Block 1078, Block 1079, Block 1080, Block 1081, Block 1082; Block Group 2: Block 2003, Block 2013, Block 2014; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005; Jackson County, Macon County: Precinct Cowee, Precinct Franklin North: Tract 9703: Block Group 1: Block 1014; Block Group 2: Block 2002, Block 2003, Block 2004, Block 2005; Block Group 6: Block 6027, Block 6028, Block 6029; Block Group 7: Block 7013, Block 7014, Block 7015, Block 7016, Block 7017, Block 7018, Block 7019, Block 7025, Block 7044, Block 7045, Block 7048, Block 7049, Block 7051, Block 7052, Block 7053, Block 7054, Block 7055, Block 7059, Block 7060, Block 7061, Block 7062, Block 7063, Block 7064, Block 7065, Block 7066, Block 7067, Block 7068, Block 7069, Block 7070, Block 7071, Block 7072, Block 7073; Block Group 8: Block 8016, Block 8017, Block 8036, Block 8037, Block 8039, Block 8040, Block 8041, Block 8042, Block 8043, Block 8044, Block 8045, Block 8046; Precinct Iotla, Precinct Millshoal: Tract 9701: Block Group 2: Block 2024, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2036; Block Group 3: Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3026, Block 3027, Block 3028, Block 3029, Block 3030, Block 3031, Block 3032, Block 3033, Block 3034, Block 3035, Block 3036, Block 3037, Block 3038, Block 3039, Block 3040, Block 3041, Block 3042, Block 3043, Block 3044, Block 3045, Block 3046, Block 3047, Block 3048, Block 3049, Block 3051, Block 3052, Block 3053, Block 3054, Block 3055,

Block 3067, Block 3068, Block 3999; Tract 9703: Block Group 1: Block 1998; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3005, Block 3998, Block 3999; Tract 9704: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038, Block 1039, Block 1040, Block 1041, Block 1042, Block 1043, Block 1044, Block 1045, Block 1046, Block 1048, Block 1049, Block 1050, Block 1051, Block 1054, Block 1055, Block 1056, Block 1057, Block 1058, Block 1059, Block 1075, Block 1077, Block 1078, Block 1079, Block 1080, Block 1081, Block 1082; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3025, Block 3026, Block 3027, Block 3028, Block 3029; Swain County.

District 120: Cherokee County, Clay County, Graham County, Macon County: Precinct Burningtown, Precinct Cartoogechaye, Precinct Ellijay, Precinct Flats, Precinct Franklin East, Precinct Franklin North: Tract 9703: Block Group 2: Block 2000, Block 2001, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2027, Block 2028; Block Group 7: Block 7020, Block 7021, Block 7022, Block 7023, Block 7024, Block 7026, Block 7027, Block 7028, Block 7029, Block 7030, Block 7031, Block 7032, Block 7033, Block 7034, Block 7039, Block 7041, Block 7042, Block 7043, Block 7046, Block 7047, Block 7050, Block 7056, Block 7057, Block 7058; Precinct Franklin South, Precinct Highlands, Precinct Millshoal: Tract 9703: Block Group 3: Block 3004; Tract 9704: Block Group 1: Block 1052, Block 1053, Block 1074, Block 1076; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2028, Block 2029, Block 2031; Block Group 3: Block 3043; Precinct Nantahala, Precinct Smithbridge, Precinct Sugarfork, Precinct Union."

**SECTION 2.** G.S. 120-2(b) and (c) read as rewritten:

"(b) The names and boundaries of precincts (voting tabulation districts), tracts, block groups, and blocks specified in this section are ~~as they were legally defined and recognized in the 2000 United States Census. Boundaries are~~ as shown on the Redistricting Census 2000 TIGER Files, with modifications made by the Legislative Services Office on its computer database as of ~~May 1, 2001, October 20, 2003,~~ to reflect precincts ~~divided or renamed~~ updated as outlined in subsection (c) of this section. ~~However, in Robeson County PHILADEPLUS is, in fact, PHILADELPHUS, and in Vance County SANDY SCREEK is, in fact, SANDY CREEK. If the boundary line between Iredell and Mecklenburg Counties in the Redistricting Census 2000 TIGER Files conflicts with that provided by Section 1 of Session Law 1998-15 as rewritten by Session Law 2001-429, Section 1 of Session Law 1998-15 as rewritten by Session Law 2001-429 prevails to the extent of the conflict.~~ However, the boundary corner between Forsyth, Stokes, and Rockingham Counties is as established by Chapter 23, Public Laws of 1848-49.

(c) The Legislative Services Office modified on its computer database some of the precincts shown on the Redistricting Census 2000 TIGER Files to reflect ~~precincts divided or renamed by county boards of elections after the TIGER Files were~~

completed with greater accuracy the precincts as they existed as of October 20, 2003, including changes made to precincts after the TIGER Files were completed. As a result, precincts are shown differently on the Legislative Services Office computer database from the TIGER Files in the following counties: several counties. Those changes include actions by county boards of elections to divide, merge, and otherwise realign precincts. Where a realignment of precinct boundaries by a county board of elections is impossible to reflect in the database using Census geography, the Legislative Services Office modified the database by either merging two precincts or by approximating the boundary using Census geography. The following is a list, for informational purposes only, of precincts shown in the TIGER Files, the geography of which has been modified in the Legislative Services Office computer database:

- (1) ~~Buncombe County:~~
  - a. ~~Precinct Asheville 4 in TIGER is shown as Precincts Asheville 4 and Asheville 28.~~
  - b. ~~Precinct Asheville 22 in TIGER is shown as Precincts Asheville 22 and Asheville 27.~~
  - c. ~~Precinct Asheville 19 in TIGER is shown as Precincts Asheville 19 and Asheville 29.~~
  - d. ~~Precinct Riceville Swannanoa 2 CRU in TIGER is shown as Precincts Riceville Swannanoa 2 CRU and Riceville Swannanoa CRU 2.~~
  - e. ~~Precinct Black Mountain 3 in TIGER is shown as Precincts Black Mountain 3 and Black Mountain 4.~~
- (2) ~~Cabarrus County:~~
  - a. ~~Precinct 0202 in TIGER is shown as Precincts 0202 and 0207.~~
  - b. ~~Precinct 1209 in TIGER is shown as Precincts 1209 and 1212.~~
- (3) ~~Caldwell County: Precinct Lovelady in TIGER is shown as Precincts Lovelady 1 and Lovelady 2.~~
- (4) ~~Chatham County:~~
  - a. ~~Precinct North Williams in TIGER is shown as Precincts North Williams and North Williams 2.~~
  - b. ~~Precinct East Williams in TIGER is shown as Precincts East Williams and East Williams 2.~~
- (5) ~~Craven County: Precinct Havelock in TIGER is shown as Precincts Havelock East and Havelock West.~~
- (6) ~~Franklin County: Precinct Harris in TIGER is shown as Precincts East Harris and West Harris.~~
- (7) ~~Guilford County: Precinct Greensboro 40 in TIGER is shown as Precincts Greensboro 40A and Greensboro 40B.~~
- (8) ~~Johnston County: Precinct East Clayton in TIGER is shown as Precincts East Clayton and South Clayton.~~
- (9) ~~Orange County:~~
  - a. ~~Precinct Frank Porter Graham in TIGER is renamed Precinct Damascus 1.~~
  - b. ~~Precinct Dogwood Acres in TIGER is shown as Precincts Dogwood Acres and Damascus 2.~~
- (10) ~~Rowan County:~~
  - a. ~~Precinct Bostian Crossroads in TIGER is shown as Precincts Bostian Crossroads and Rock Grove.~~

- b. ~~Precinct Enochville in TIGER is shown as Precincts Enochville and West Enochville.~~
- (11) ~~Wake County:~~
  - a. ~~Precinct 01-32 in TIGER is shown as Precincts 01-32 and 01-49.~~
  - b. ~~Precinct 07-06 in TIGER is shown as Precincts 07-06 and 07-11.~~
  - e. ~~Precinct 10-01 in TIGER is shown as Precincts 10-01 and 10-04.~~
  - d. ~~Precinct 10-02 in TIGER is shown as Precincts 10-02 and 10-03.~~
  - e. ~~Precinct 01-43 in TIGER is shown as Precincts 01-43 and 01-51.~~
  - f. ~~Precinct 07-02 in TIGER is shown as Precincts 07-02 and 07-12.~~
  - g. ~~Precinct 08-04 in TIGER is shown as Precincts 08-04 and 08-08.~~
  - h. ~~Precinct 12-02 in TIGER is shown as Precincts 12-02 and 12-06.~~
  - i. ~~Precinct 18-03 in TIGER is shown as Precincts 18-03 and 18-08.~~
  - j. ~~Precinct 19-02 in TIGER is shown as Precincts 19-02 and 19-06.~~
  - k. ~~Precinct 19-03 in TIGER is shown as Precincts 19-03 and 19-07.~~
  - l. ~~Precinct 19-04 in TIGER is shown as Precincts 19-04 and 19-08.~~
  - m. ~~Precinct 20-04 in TIGER is shown as Precincts 20-04 and 20-10.~~
  - n. ~~Precinct 01-32 in TIGER is shown as Precincts 01-32 and 01-49.~~
- (1) Anson County: All precincts except Burnsville, Peachland, and White Store.
- (2) Buncombe County: Asheville 4, 15, 22, 19, Riceville Swannanoa 2 CRU, and Black Mountain 3.
- (3) Cabarrus County: 0202 and 1209.
- (4) Caldwell County: Lovelady 2.
- (5) Carteret County: Cape Carteret, Cedar Point, Indian Beach, Salter Path, Newport 1, and Newport 2.
- (6) Caswell County: Yanceyville 2 and Yanceyville 4.
- (7) Chatham County: East Williams, North Williams, and West Williams.
- (8) Craven County: Havelock.
- (9) Cumberland County: Beaver Dam, Cedar Creek, Arran Hills, Cumberland 1, Hope Mills 1, and Stoney Point.
- (10) Dare County: Manteo.
- (11) Gates County: 1 and 5.
- (12) Guilford County: Greensboro 40, North Clay, High Point 19, High Point 20, Center Grove 1, and Summerfield 3.
- (13) Hertford County: Murfreesboro 2 and Murfreesboro 3.

- (14) Iredell County: Coddle Creek 1 through 4 and Statesville 1 through 6.
- (15) Johnston County: East Clayton, Pleasant Grove, and Wilders.
- (16) Lee County: West Sanford 2.
- (17) Lincoln County: North Brook I/II, Iron Station, Lowesville, Denver, Hickory Grove, Pumpkin Center, and Triangle.
- (18) Mecklenburg County: 77, 97, 121, 122, 138, 140, 142, 143, 144, 202, 206, 225, 228, 239, 240, and 242.
- (19) Moore County: Eureka and Knollwood.
- (20) New Hanover County: Harnett 2 and 8.
- (21) Onslow County: Voting Districts Not Defined.
- (22) Orange County: Booker Creek, Cedar Falls, Dogwood Acres, and Frank Porter Graham.
- (23) Pasquotank County: Precincts Mt. Hermon, Providence, 1A, 1B, 2A, 2B, 3A, 3B, and 4A.
- (24) Robeson County: Fairmont 1 and 2 and Red Springs 1 and 2.
- (25) Rowan County: Bostian Crossroads, Enochville, Franklin, and Granite Quarry.
- (26) Union County: 22 and 33.
- (27) Wake County: 01-22, 01-32, 01-43, 04-09, 04-11, 05-00, 07-02, 07-05, 07-06, 08-01, 08-03, 08-04, 09-02, 10-01, 10-02, 12-01, 12-02, 12-04, 13-02, 13-03, 15-01, 15-02, 16-01, 16-04, 17-01, 17-02, 17-05, 17-07, 18-02, 18-03, 19-02, 19-03, 19-04, 20-01, 20-03, 20-04, and 20-06.

The database is available for public inspection, and where it differs from the foregoing list, the database prevails.

In additional instances, precincts shown in the TIGER Files have not been changed geographically, but the names that appear in TIGER have been modified to correct misspellings, to standardize naming, or to reflect more closely the names used by county boards of elections and the State Board of Elections."

**SECTION 3.** G.S. 120-1(a) is rewritten to read:

"(a) District 1: Beaufort County, Camden County, Currituck County, Dare County, Hyde County, Pasquotank County, Tyrrell County, Washington County.

District 2: Carteret County, Craven County, Pamlico County.

District 3: Edgecombe County, Martin County, Pitt County: Precinct Arthur: Tract 16: Block Group 1: Block 1000, Block 1001, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1016, Block 1017; Block Group 2: Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023; Tract 17: Block Group 1: Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1049, Block 1050, Block 1051, Block 1052, Block 1053, Block 1054, Block 1055, Block 1056, Block 1057, Block 1058, Block 1059, Block 1060, Block 1061, Block 1062, Block 1066, Block 1067, Block 1068, Block 1069, Block 1070, Block 1071, Block 1072, Block 1073, Block 1074, Block 1075, Block 1076, Block 1077; Tract 18: Block Group 4: Block 4000, Block 4001, Block 4002, Block 4003, Block 4004; Precinct Ayden B: Tract 12: Block Group 2: Block 2006, Block 2007; Tract 14: Block Group 2: Block 2038; Block Group 3, Block Group 4: Block 4001, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 4007, Block 4010, Block 4011; Block Group 5: Block 5000, Block 5001, Block 5002, Block 5003, Block 5008, Block 5009, Block 5010, Block 5011, Block 5012, Block 5013, Block 5014, Block 5017, Block 5018, Block 5019, Block 5020, Block 5021, Block 5022, Block 5023, Block 5024, Block 5031, Block



5032, Block 5033; Precinct Belvoir, Precinct Bethel, Precinct Carolina, Precinct Chicod, Precinct Falkland, Precinct Fountain: Tract 19: Block Group 1: Block 1002, Block 1003, Block 1010, Block 1011, Block 1012, Block 1018; Block Group 2: Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2048; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3033; Precinct Greenville 01, Precinct Greenville 03, Precinct Greenville 04, Precinct Greenville 05A, Precinct Greenville 05B, Precinct Greenville 06, Precinct Greenville 09: Tract 3: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1008, Block 1009, Block 1010, Block 1018, Block 1019, Block 1998, Block 1999; Block Group 4: Block 4000, Block 4001, Block 4002, Block 4003, Block 4053, Block 4054, Block 4055, Block 4056, Block 4057; Tract 9: Block Group 2: Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2036, Block 2037, Block 2055, Block 2056, Block 2057, Block 2059, Block 2993, Block 2994, Block 2995, Block 2996; Tract 10: Block Group 4: Block 4013, Block 4014, Block 4015, Block 4016, Block 4017, Block 4018, Block 4019, Block 4020, Block 4021, Block 4022, Block 4023, Block 4997; Precinct Greenville 12A: Tract 6: Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2026; Precinct Grifton, Precinct Grimesland, Precinct Pactolus, Precinct Simpson A, Precinct Simpson B, Precinct Swift Creek.

District 4: Bertie County, Chowan County, Gates County, Halifax County, Hertford County, Northampton County, Perquimans County.

District 5: Greene County, Pitt County: Precinct Arthur: Tract 6: Block Group 2: Block 2018, Block 2021; Tract 16: Block Group 1: Block 1002, Block 1003, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1020; Block Group 2: Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2040, Block 2041, Block 2042, Block 2043, Block 2044, Block 2049, Block 2050, Block 2054; Block Group 3: Block 3005, Block 3006; Precinct Ayden A, Precinct Ayden B: Tract 12: Block Group 1: Block 1033, Block 1034; Tract 14: Block Group 1: Block 1005, Block 1012, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1059, Block 1060, Block 1061, Block 1062; Block Group 2: Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2035, Block 2036, Block 2037, Block 2039, Block 2041; Block Group 5: Block 5004, Block 5005, Block 5006, Block 5007, Block 5015, Block 5016, Block 5025, Block 5026, Block 5027, Block 5028; Precinct Farmville A, Precinct Farmville B, Precinct Fountain: Tract 18: Block Group 3: Block 3001; Tract 19: Block Group 1: Block 1044; Block Group 2: Block 2001, Block 2026, Block 2027, Block 2028, Block

2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2035, Block 2036, Block 2037, Block 2038, Block 2047; Block Group 3: Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3024, Block 3025, Block 3028, Block 3029, Block 3030, Block 3031, Block 3032; Precinct Greenville 07A, Precinct Greenville 07B, Precinct Greenville 07C, Precinct Greenville 08A, Precinct Greenville 08B, Precinct Greenville 09: Tract 1: Block Group 5: Block 5024, Block 5025; Tract 2: Block Group 5: Block 5022, Block 5023, Block 5024, Block 5025; Tract 3: Block Group 1: Block 1007, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2037; Block Group 4: Block 4004, Block 4005, Block 4006, Block 4007, Block 4008, Block 4009, Block 4999; Tract 4: Block Group 3: Block 3005, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3024, Block 3025, Block 3026, Block 3027, Block 3028, Block 3029; Block Group 4: Block 4004, Block 4005; Precinct Greenville 10A, Precinct Greenville 10B, Precinct Greenville 11A, Precinct Greenville 11B, Precinct Greenville 12A: Tract 6: Block Group 2: Block 2019, Block 2020, Block 2022, Block 2023, Block 2024, Block 2025, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2035, Block 2036, Block 2037, Block 2038, Block 2039, Block 2040, Block 2041, Block 2042, Block 2043, Block 2044; Tract 16: Block Group 2: Block 2035, Block 2036; Precinct Greenville 12B, Precinct Winterville Central A, Precinct Winterville Central B, Precinct Winterville East; Wayne County: Precinct 02: Tract 2: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019; Block Group 2: Block 2000, Block 2001; Block Group 3; Tract 3.01: Block Group 1: Block 1000, Block 1001, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1051, Block 1052, Block 1053, Block 1054, Block 1055; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3010, Block 3011, Block 3012; Precinct 06, Precinct 07, Precinct 10, Precinct 11, Precinct 12, Precinct 13, Precinct 14, Precinct 15, Precinct 17, Precinct 18, Precinct 19, Precinct 20, Precinct 21, Precinct 22, Precinct 23, Precinct 25: Tract 8: Block Group 1: Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038, Block 1039, Block 1040, Block 1041, Block 1042, Block 1043, Block 1044, Block 1045; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3024, Block 3028,

Block 3029, Block 3030, Block 3031, Block 3032, Block 3033, Block 3034, Block 3035, Block 3036, Block 3037, Block 3038, Block 3039, Block 3040, Block 3041, Block 3042, Block 3043, Block 3044, Block 3045, Block 3046, Block 3047, Block 3050; Tract 9: Block Group 6: Block 6010; Block Group 7: Block 7023, Block 7024, Block 7025, Block 7026, Block 7027, Block 7028, Block 7029, Block 7032, Block 7033, Block 7034, Block 7035, Block 7036, Block 7037, Block 7038, Block 7039, Block 7040, Block 7042, Block 7043, Block 7044; Precinct 26: Tract 6.01: Block Group 3: Block 3005, Block 3006, Block 3007, Block 3010, Block 3011, Block 3012; Tract 6.02: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1014, Block 1015, Block 1016, Block 1017; Tract 9: Block Group 5: Block 5016, Block 5017, Block 5024, Block 5025, Block 5026, Block 5027, Block 5030, Block 5031, Block 5032, Block 5033, Block 5034, Block 5035, Block 5036, Block 5037, Block 5038, Block 5039, Block 5040; Block Group 7: Block 7000, Block 7001, Block 7002, Block 7003, Block 7004, Block 7007, Block 7008, Block 7009, Block 7010, Block 7011, Block 7012, Block 7013, Block 7014, Block 7015, Block 7016, Block 7017, Block 7018, Block 7019, Block 7020, Block 7021, Block 7022, Block 7041; Precinct 27, Precinct 28, Precinct 29, Precinct 30.

District 6: Jones County, Onslow County.

District 7: Franklin County, Granville County, Vance County, Warren County.

District 8: Brunswick County, Columbus County, Pender County.

District 9: New Hanover County.

District 10: Duplin County, Lenoir County, Sampson County.

District 11: Nash County, Wilson County.

District 12: Johnston County, Wayne County: Precinct 01, Precinct 02: Tract 2: Block Group 1: Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1020, Block 1027; Tract 3.01: Block Group 4: Block 4000, Block 4005, Block 4006, Block 4007, Block 4008, Block 4009; Precinct 03, Precinct 04, Precinct 05, Precinct 08, Precinct 09, Precinct 16, Precinct 24, Precinct 25: Tract 8: Block Group 2: Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018; Tract 9: Block Group 3: Block 3010; Block Group 6: Block 6001, Block 6002, Block 6003, Block 6005, Block 6007, Block 6008, Block 6009, Block 6011, Block 6012, Block 6013, Block 6014, Block 6015, Block 6017, Block 6998, Block 6999; Block Group 7: Block 7030, Block 7031; Tract 10: Block Group 1: Block 1026; Precinct 26: Tract 9: Block Group 4: Block 4009, Block 4010, Block 4011, Block 4012, Block 4013, Block 4021, Block 4022, Block 4023; Block Group 5: Block 5010, Block 5011, Block 5012, Block 5013, Block 5014, Block 5015, Block 5028, Block 5029, Block 5041, Block 5042, Block 5995, Block 5996; Block Group 7: Block 7005, Block 7006.

District 13: Hoke County, Robeson County.

District 14: Wake County: Precinct 01-12: Tract 527.01: Block Group 2: Block 2028, Block 2029, Block 2030, Block 2031, Block 2036, Block 2037, Block 2038; Precinct 01-18: Tract 527.01: Block Group 1: Block 1013, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034; Precinct 01-19, Precinct 01-20: Tract 507: Block Group 1, Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011; Block Group 4: Block 4000, Block 4001,

Block 4002, Block 4003, Block 4004, Block 4005; Tract 521.02: Block Group 1: Block 1009; Precinct 01-21: Tract 521.01: Block Group 2: Block 2033, Block 2035, Block 2036, Block 2037, Block 2038, Block 2042, Block 2043; Tract 522.02: Block Group 1: Block 1027, Block 1028, Block 1029, Block 1039, Block 1040, Block 1041, Block 1050, Block 1052, Block 1053, Block 1056, Block 1059, Block 1060, Block 1061, Block 1062, Block 1063, Block 1064, Block 1065, Block 1069, Block 1080; Precinct 01-22, Precinct 01-26: Tract 507: Block Group 3: Block 3012, Block 3013; Block Group 4: Block 4006, Block 4007, Block 4008, Block 4009, Block 4010, Block 4011, Block 4012, Block 4013; Block Group 5: Block 5004, Block 5005, Block 5006, Block 5007, Block 5008; Tract 508: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010; Block Group 2: Block 2000, Block 2001, Block 2002; Block Group 3; Tract 509: Block Group 1: Block 1019; Block Group 2: Block 2000, Block 2001, Block 2009, Block 2010; Tract 521.01: Block Group 2: Block 2000; Precinct 01-28, Precinct 01-34, Precinct 01-35: Tract 508: Block Group 1: Block 1011, Block 1012; Block Group 2: Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010; Tract 509: Block Group 2: Block 2002, Block 2003, Block 2006, Block 2007, Block 2008, Block 2011, Block 2012; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3019, Block 3020, Block 3021; Tract 521.01: Block Group 1, Block Group 2: Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2039, Block 2040, Block 2041, Block 2044, Block 2045; Tract 522.01: Block Group 1: Block 1021; Tract 522.02: Block Group 1: Block 1000; Precinct 01-38, Precinct 01-40, Precinct 01-46, Precinct 01-50, Precinct 09-01, Precinct 09-02, Precinct 09-03, Precinct 10-01, Precinct 10-02, Precinct 10-03, Precinct 10-04, Precinct 13-01, Precinct 13-03, Precinct 13-05: Tract 540.10: Block Group 1: Block 1057, Block 1060, Block 1061, Block 1062, Block 1063, Block 1085, Block 1086, Block 1087, Block 1088, Block 1089, Block 1090, Block 1091, Block 1092, Block 1093, Block 1094, Block 1095, Block 1096, Block 1997, Block 1998, Block 1999; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2025, Block 2026, Block 2027, Block 2028; Precinct 13-06: Tract 540.10: Block Group 1: Block 1000, Block 1058, Block 1059; Precinct 13-07, Precinct 16-01: Tract 528.03: Block Group 2: Block 2033, Block 2035; Tract 528.04: Block Group 1: Block 1000, Block 1001, Block 1002; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2033, Block 2034, Block 2035, Block 2036, Block 2037, Block 2038, Block 2039, Block 2040, Block 2041, Block 2042, Block 2043, Block 2044, Block 2045, Block 2046, Block 2047, Block 2048; Precinct 16-02, Precinct 16-08, Precinct 17-01, Precinct 17-02, Precinct 17-03, Precinct 17-04, Precinct 17-05, Precinct 17-06, Precinct 17-07, Precinct 17-08, Precinct 17-09, Precinct 17-10, Precinct 17-11, Precinct 19-01, Precinct 19-02: Tract 542.01: Block Group 5: Block 5000, Block 5001, Block 5002, Block 5142, Block 5143; Tract 542.02: Block Group 2: Block 2013, Block 2014; Precinct 19-04, Precinct 19-07: Tract 542.01: Block Group 4: Block 4000, Block 4001, Block 4002, Block 4003, Block 4004, Block 4005, Block 4999; Tract 542.02: Block Group 2: Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2030, Block 2996; Precinct 19-08.

District 15: Wake County: Precinct 01-11, Precinct 01-15, Precinct 01-17, Precinct 01-18: Tract 526.02: Block Group 2: Block 2009; Tract 527.01: Block Group 1: Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block

1008, Block 1017, Block 1018, Block 1019; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2999; Precinct 01-29: Tract 515.01: Block Group 1: Block 1000, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023; Precinct 01-30, Precinct 01-36, Precinct 01-37, Precinct 01-39, Precinct 01-42, Precinct 01-43, Precinct 01-44, Precinct 01-45, Precinct 01-47, Precinct 01-51, Precinct 02-01, Precinct 02-02, Precinct 02-03, Precinct 02-04, Precinct 02-05, Precinct 02-06, Precinct 07-02, Precinct 07-03, Precinct 07-04, Precinct 07-05, Precinct 07-06, Precinct 07-07, Precinct 07-09, Precinct 07-11, Precinct 07-12, Precinct 07-13, Precinct 08-01, Precinct 08-02, Precinct 08-03, Precinct 08-04, Precinct 08-05, Precinct 08-06, Precinct 08-07, Precinct 08-08, Precinct 08-09, Precinct 13-02, Precinct 13-04, Precinct 13-05: Tract 540.10: Block Group 1: Block 1046, Block 1047, Block 1050, Block 1052, Block 1053, Block 1056, Block 1064, Block 1065, Block 1066, Block 1067, Block 1068, Block 1069, Block 1070, Block 1071, Block 1072, Block 1073, Block 1074, Block 1075, Block 1076, Block 1077, Block 1078, Block 1079, Block 1080, Block 1081, Block 1082, Block 1083, Block 1084; Precinct 13-06: Tract 540.10: Block Group 1: Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1031, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038, Block 1039, Block 1041, Block 1042, Block 1043, Block 1044, Block 1045, Block 1048, Block 1049, Block 1051, Block 1054, Block 1055; Precinct 14-01, Precinct 14-02, Precinct 19-02: Tract 542.01: Block Group 1, Block Group 5: Block 5003, Block 5004, Block 5005, Block 5006, Block 5007, Block 5008, Block 5009, Block 5010, Block 5011, Block 5012, Block 5013, Block 5014, Block 5015, Block 5016, Block 5017, Block 5018, Block 5019, Block 5020, Block 5021, Block 5022, Block 5023, Block 5024, Block 5025, Block 5026, Block 5027, Block 5028, Block 5029, Block 5030, Block 5031, Block 5032, Block 5033, Block 5034, Block 5035, Block 5036, Block 5037, Block 5038, Block 5039, Block 5040, Block 5041, Block 5042, Block 5043, Block 5044, Block 5045, Block 5046, Block 5047, Block 5048, Block 5049, Block 5050, Block 5051, Block 5052, Block 5113, Block 5114, Block 5115, Block 5116, Block 5117, Block 5118, Block 5119, Block 5120, Block 5121, Block 5122, Block 5123, Block 5124, Block 5125, Block 5132, Block 5133, Block 5134, Block 5135, Block 5136, Block 5137, Block 5138, Block 5139, Block 5140, Block 5141; Precinct 19-03, Precinct 19-05, Precinct 19-06, Precinct 19-07: Tract 540.10: Block Group 2: Block 2000, Block 2040, Block 2041, Block 2042, Block 2043, Block 2044, Block 2045, Block 2046, Block 2047, Block 2048, Block 2062, Block 2063, Block 2064, Block 2065, Block 2066, Block 2067; Block Group 4: Block 4006, Block 4007, Block 4008, Block 4009, Block 4010, Block 4011, Block 4012, Block 4013, Block 4014, Block 4015, Block 4016, Block 4017, Block 4018, Block 4019, Block 4020, Block 4021, Block 4022, Block 4023.

District 16: Wake County: Precinct 01-01, Precinct 01-02, Precinct 01-03, Precinct 01-04, Precinct 01-05, Precinct 01-06, Precinct 01-07, Precinct 01-09, Precinct 01-10, Precinct 01-12: Tract 517: Block Group 1: Block 1008; Tract 518: Block Group 1: Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1020, Block 1021, Block 1022, Block 1023; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005; Block Group 3; Tract 527.01: Block Group 2: Block 2039; Precinct 01-13, Precinct 01-14, Precinct 01-16, Precinct 01-20: Tract 501:

Block Group 1: Block 1052, Block 1053, Block 1054, Block 1057, Block 1058, Block 1059, Block 1060, Block 1061, Block 1079, Block 1080, Block 1081, Block 1082, Block 1083, Block 1084, Block 1085, Block 1086, Block 1087, Block 1088, Block 1089, Block 1093, Block 1094, Block 1095, Block 1096, Block 1097, Block 1098, Block 1099, Block 1100, Block 1101, Block 1102; Tract 507: Block Group 5: Block 5000, Block 5001, Block 5002, Block 5003; Precinct 01-21: Tract 522.02: Block Group 1: Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038, Block 1042, Block 1043, Block 1044, Block 1045, Block 1051, Block 1997, Block 1998, Block 1999; Block Group 2, Block Group 3; Precinct 01-23, Precinct 01-25, Precinct 01-26: Tract 501: Block Group 1: Block 1090, Block 1091, Block 1092, Block 1112, Block 1113, Block 1114, Block 1115, Block 1116, Block 1117; Tract 509: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1015, Block 1016, Block 1017, Block 1018, Block 1020, Block 1021; Precinct 01-27, Precinct 01-29: Tract 515.01: Block Group 1: Block 1008; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2017, Block 2018, Block 2019; Tract 515.02: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010; Precinct 01-31, Precinct 01-32, Precinct 01-33, Precinct 01-35: Tract 508: Block Group 2: Block 2011, Block 2012, Block 2013; Tract 509: Block Group 1: Block 1022, Block 1023, Block 1024, Block 1025; Block Group 2: Block 2004, Block 2005, Block 2013; Block Group 3: Block 3004, Block 3005, Block 3006, Block 3016, Block 3017, Block 3018; Tract 522.01: Block Group 1: Block 1000, Block 1001, Block 1018, Block 1019, Block 1020; Tract 522.02: Block Group 1: Block 1001, Block 1002; Precinct 01-41, Precinct 01-48, Precinct 01-49, Precinct 04-01, Precinct 04-02, Precinct 04-03, Precinct 04-04: Tract 535.07: Block Group 2: Block 2001, Block 2002; Block Group 3: Block 3007, Block 3008, Block 3009; Precinct 04-05, Precinct 04-08, Precinct 04-09, Precinct 04-11, Precinct 04-12, Precinct 04-15, Precinct 04-17, Precinct 04-18, Precinct 04-20, Precinct 04-21, Precinct 05-01, Precinct 05-02, Precinct 05-03, Precinct 07-01, Precinct 07-10, Precinct 11-01, Precinct 11-02, Precinct 18-01: Tract 523.01: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1021, Block 1022, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038, Block 1039, Block 1040, Block 1041; Tract 523.02: Block Group 2: Block 2003, Block 2004, Block 2005, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2035, Block 2036, Block 2037, Block 2038, Block 2039, Block 2040, Block 2041, Block 2042, Block 2043, Block 2044, Block 2045, Block 2046, Block 2047, Block 2048, Block 2049, Block 2050, Block 2051, Block 2999; Precinct 18-06: Tract 523.01: Block Group 1: Block 1003, Block 1005, Block 1006, Block 1017, Block 1018, Block 1019, Block 1020, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1043, Block 1996, Block 1997, Block 1998, Block 1999; Tract 524.04: Block Group 1: Block 1043, Block 1996, Block 1997, Block 1998, Block 1999; Tract 530.01: Block Group 2: Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027; Tract 530.02: Block Group 1:

Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038, Block 1039, Block 1040, Block 1041, Block 1042, Block 1043, Block 1057, Block 1058, Block 1994, Block 1998, Block 1999; Precinct 18-08: Tract 530.01: Block Group 2: Block 2000, Block 2001, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2031, Block 2032, Block 2038, Block 2039, Block 2040, Block 2041, Block 2042, Block 2043; Precinct 20-02: Tract 534.03: Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2015, Block 2016, Block 2017, Block 2018; Tract 536: Block Group 2: Block 2119, Block 2120, Block 2121, Block 2122, Block 2123, Block 2128, Block 2129, Block 2130, Block 2131, Block 2132, Block 2133, Block 2134, Block 2135, Block 2136, Block 2137, Block 2138, Block 2139, Block 2140, Block 2141, Block 2142, Block 2143, Block 2144, Block 2145, Block 2146, Block 2147, Block 2148, Block 2149, Block 2150, Block 2151, Block 2161, Block 2162, Block 2164, Block 2165, Block 2166, Block 2167, Block 2202, Block 2221, Block 2222, Block 2223, Block 2224, Block 2225, Block 2226, Block 2227, Block 2228, Block 2229, Block 2230, Block 2231, Block 2232, Block 2233.

District 17: Wake County: Precinct 03-00, Precinct 04-04: Tract 535.08: Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010; Precinct 04-06, Precinct 04-07, Precinct 04-10, Precinct 04-13, Precinct 04-14, Precinct 04-16, Precinct 04-19, Precinct 06-01, Precinct 06-02, Precinct 06-03, Precinct 12-01, Precinct 12-02, Precinct 12-03, Precinct 12-04, Precinct 12-05, Precinct 12-06, Precinct 12-07, Precinct 15-01, Precinct 15-02, Precinct 15-03, Precinct 15-04, Precinct 16-01: Tract 528.05: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1061; Precinct 16-03, Precinct 16-04, Precinct 16-05, Precinct 16-06, Precinct 16-07, Precinct 16-09, Precinct 18-01: Tract 530.02: Block Group 2: Block 2019, Block 2020, Block 2021; Precinct 18-02, Precinct 18-03, Precinct 18-04, Precinct 18-05, Precinct 18-06: Tract 530.02: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1044, Block 1045, Block 1046, Block 1049, Block 1050, Block 1993; Precinct 18-07, Precinct 18-08: Tract 530.01: Block Group 1: Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009; Block Group 2: Block 2028, Block 2029, Block 2030, Block 2033, Block 2034, Block 2035, Block 2036, Block 2037, Block 2044, Block 2049, Block 2050, Block 2051, Block 2052, Block 2053, Block 2054, Block 2055, Block 2056, Block 2057, Block 2058, Block 2059, Block 2060, Block 2061, Block 2062, Block 2063, Block 2064, Block 2065, Block 2066, Block 2067, Block 2068, Block 2080, Block 2081, Block 2082, Block 2083, Block 2084, Block 2085, Block 2086, Block 2087, Block 2088, Block 2089, Block 2090, Block 2091, Block 2164, Block 2165; Precinct 20-01, Precinct 20-02: Tract 534.03: Block Group 2: Block 2013, Block 2014, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025,

Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2035, Block 2036, Block 2037, Block 2038, Block 2039, Block 2040, Block 2041, Block 2042, Block 2043, Block 2044, Block 2045, Block 2046, Block 2047, Block 2048, Block 2049, Block 2050, Block 2051, Block 2052, Block 2054, Block 2055, Block 2056, Block 2057; Block Group 4: Block 4000, Block 4001, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 4007, Block 4008, Block 4009, Block 4010, Block 4011; Precinct 20-03, Precinct 20-04, Precinct 20-05, Precinct 20-06, Precinct 20-07, Precinct 20-08, Precinct 20-09, Precinct 20-10.

District 18: Chatham County, Durham County: Precinct 03: Tract 4.01: Block Group 3: Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010; Tract 4.02: Block Group 1: Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038, Block 1039, Block 1040, Block 1043, Block 1048; Tract 5: Block Group 1: Block 1003; Precinct 04: Tract 4.01: Block Group 1: Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017; Block Group 2: Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023; Block Group 3: Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023; Tract 4.02: Block Group 1: Block 1013, Block 1014; Precinct 05: Tract 5: Block Group 1: Block 1004, Block 1005; Tract 15.01, Tract 15.02; Precinct 06: Tract 6: Block Group 2: Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2026, Block 2027, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2035, Block 2036, Block 2037, Block 2038, Block 2039, Block 2040, Block 2041, Block 2042, Block 2043; Precinct 16, Precinct 27, Precinct 35, Precinct 36, Precinct 38, Precinct 39, Precinct 43, Precinct 48, Precinct 50, Precinct 51, Precinct 53, Precinct 54; Lee County.

District 19: Bladen County, Cumberland County: Precinct Alderman, Precinct Arran Hills, Precinct Beaver Dam & Cedar Creek, Precinct Black River, Precinct Brentwood, Precinct Cross Creek 01, Precinct Cross Creek 02, Precinct Cross Creek 08, Precinct Cross Creek 10, Precinct Cross Creek 11, Precinct Cross Creek 12, Precinct Cross Creek 14; Tract 7: Block Group 4: Block 4000, Block 4001, Block 4002, Block 4003, Block 4004; Precinct Cross Creek 15, Precinct Cross Creek 18, Precinct Cross Creek 20, Precinct Cross Creek 29, Precinct Cross Creek 30, Precinct Cross Creek 31, Precinct Cross Creek 34, Precinct Cumberland 1, Hope Mills 1, & Stoney Point, Precinct Cumberland 2, Precinct Cumberland 3, Precinct Eastover, Precinct Hope Mills 2, Precinct Hope Mills 3, Precinct Judson-Vander, Precinct Linden, Precinct Pearces Mill 2, Precinct Pearces Mill 3, Precinct Pearces Mill 4, Precinct Sherwood, Precinct Stedman, Precinct Wade.

District 20: Durham County: Precinct 01, Precinct 02, Precinct 03: Tract 4.01: Block Group 3: Block 3001, Block 3002, Block 3003; Tract 4.02: Block Group 1: Block 1001, Block 1002, Block 1025, Block 1026, Block 1029, Block 1030, Block



1041, Block 1042, Block 1044, Block 1045, Block 1046, Block 1047; Tract 5: Block Group 1: Block 1001, Block 1002; Precinct 04: Tract 4.01: Block Group 1: Block 1010, Block 1018, Block 1019, Block 1020, Block 1023, Block 1024; Block Group 2: Block 2001; Precinct 05: Tract 5: Block Group 1: Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1017, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025; Tract 6: Block Group 2: Block 2000, Block 2001, Block 2002; Precinct 06: Tract 5: Block Group 3: Block 3006, Block 3007; Tract 6: Block Group 2: Block 2003, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2022, Block 2023, Block 2024, Block 2025, Block 2028, Block 2029; Precinct 07, Precinct 08, Precinct 09, Precinct 10, Precinct 11, Precinct 12, Precinct 13, Precinct 14, Precinct 15, Precinct 17, Precinct 18, Precinct 19, Precinct 20, Precinct 21, Precinct 22, Precinct 23, Precinct 24, Precinct 25, Precinct 26, Precinct 28, Precinct 29, Precinct 30, Precinct 31, Precinct 32, Precinct 33, Precinct 34, Precinct 37, Precinct 40, Precinct 41, Precinct 42, Precinct 44, Precinct 45, Precinct 46, Precinct 47, Precinct 49, Precinct 52.

District 21: Cumberland County: Precinct Auman, Precinct Cliffdale West, Precinct Cross Creek 03, Precinct Cross Creek 04, Precinct Cross Creek 05, Precinct Cross Creek 06, Precinct Cross Creek 07, Precinct Cross Creek 09, Precinct Cross Creek 13, Precinct Cross Creek 14; Tract 9: Block Group 2: Block 2012; Block Group 3, Block Group 6: Block 6004, Block 6005, Block 6006, Block 6008, Block 6009, Block 6010, Block 6011, Block 6012, Block 6013; Tract 20: Block Group 1: Block 1000, Block 1018; Tract 21: Block Group 2, Block Group 5; Precinct Cross Creek 16, Precinct Cross Creek 17, Precinct Cross Creek 19, Precinct Cross Creek 21, Precinct Cross Creek 22, Precinct Cross Creek 23, Precinct Cross Creek 24, Precinct Cross Creek 25, Precinct Cross Creek 26, Precinct Cross Creek 27, Precinct Cross Creek 28, Precinct Cross Creek 32, Precinct Cross Creek 33, Precinct Lake Rim, Precinct Long Hill, Precinct Manchester, Precinct Montibello, Precinct Morganton Rd 2, Precinct Spring Lake, Precinct Westarea.

District 22: Harnett County, Moore County.

District 23: Orange County, Person County.

District 24: Alamance County, Caswell County.

District 25: Anson County, Richmond County, Scotland County, Stanly County.

District 26: Guilford County: Precinct Center Grove North, Precinct Clay North 1, Precinct Clay North 2, Precinct Clay South, Precinct Deep River North, Precinct Fentress 2, Precinct Friendship 3, Precinct Friendship 4, Precinct Friendship 5, Precinct GB 06: Tract 154: Block Group 6: Block 6006; Precinct GB 39: Tract 161.01: Block Group 1: Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016; Precinct GB 40A: Tract 160.02: Block Group 2: Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034; Block Group 3: Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012; Tract 161.01: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1999; Precinct GB 41, Precinct GB 64: Tract 160.04: Block Group 4: Block 4063, Block 4064, Block 4065, Block 4066, Block 4068, Block 4069, Block 4071; Tract 162.01: Block Group 2: Block 2043, Block 2058, Block 2059, Block 2060, Block 2062, Block 2063, Block 2064, Block 2065, Block 2066, Block 2067, Block 2068, Block 2069, Block 2070, Block 2077, Block 2078; Tract 162.02: Block Group 1: Block 1002, Block 1003;

Precinct Gibsonville, Precinct Greene, Precinct Jefferson 1: Tract 128.03: Block Group 1: Block 1025, Block 1026, Block 1027, Block 1031; Tract 153: Block Group 1: Block 1004, Block 1005, Block 1013, Block 1014, Block 1025, Block 1026, Block 1027, Block 1028, Block 1056, Block 1057, Block 1058; Block Group 2; Tract 154: Block Group 5: Block 5027, Block 5028, Block 5029, Block 5034, Block 5035, Block 5036, Block 5037, Block 5038, Block 5039, Block 5040, Block 5041, Block 5042, Block 5043, Block 5044, Block 5045, Block 5048, Block 5049; Block Group 6: Block 6000, Block 6001, Block 6002, Block 6003, Block 6004, Block 6005, Block 6007, Block 6009, Block 6010, Block 6011, Block 6012, Block 6013, Block 6014, Block 6015, Block 6016, Block 6017, Block 6018, Block 6019; Precinct Jefferson 2: Tract 128.03: Block Group 1: Block 1024, Block 1028, Block 1029, Block 1030, Block 1032; Tract 153: Block Group 3: Block 3006, Block 3007, Block 3008, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3024, Block 3025, Block 3026, Block 3027, Block 3028, Block 3029, Block 3030, Block 3031, Block 3032, Block 3033, Block 3034, Block 3035; Precinct Jefferson 4, Precinct Madison North, Precinct Madison South, Precinct Monroe 3, Precinct Oak Ridge 1, Precinct Oak Ridge 2, Precinct Rock Creek 1, Precinct Rock Creek 2, Precinct Stokesdale, Precinct Summerfield 1, Precinct Summerfield 2, Precinct Summerfield 3, Precinct Summerfield 4, Precinct Washington North, Precinct Washington South; Rockingham County.

District 27: Guilford County: Precinct Center Grove 1, Precinct Center Grove 2, Precinct Center Grove 3, Precinct GB 01, Precinct GB 02, Precinct GB 07, Precinct GB 08, Precinct GB 09, Precinct GB 10, Precinct GB 11, Precinct GB 12, Precinct GB 13, Precinct GB 14, Precinct GB 15, Precinct GB 16, Precinct GB 17, Precinct GB 18, Precinct GB 19, Precinct GB 20, Precinct GB 21, Precinct GB 22, Precinct GB 23, Precinct GB 24, Precinct GB 25, Precinct GB 26, Precinct GB 27, Precinct GB 28, Precinct GB 29, Precinct GB 30, Precinct GB 31, Precinct GB 32, Precinct GB 33, Precinct GB 34, Precinct GB 35, Precinct GB 36, Precinct GB 37, Precinct GB 38, Precinct GB 39: Tract 125.06: Block Group 1: Block 1065, Block 1067; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3007; Precinct GB 40A: Tract 160.02: Block Group 2: Block 2004, Block 2005; Precinct GB 40B, Precinct GB 42, Precinct GB 43, Precinct GB 44, Precinct GB 45, Precinct GB 47, Precinct GB 48, Precinct GB 49, Precinct GB 50, Precinct GB 51, Precinct GB 52: Tract 126.04: Block Group 1: Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3017; Precinct GB 54, Precinct GB 55, Precinct GB 56, Precinct GB 57, Precinct GB 58, Precinct GB 59, Precinct GB 60, Precinct GB 61, Precinct GB 62, Precinct GB 63, Precinct GB 64: Tract 160.04: Block Group 4: Block 4038, Block 4044, Block 4045, Block 4046, Block 4047, Block 4048, Block 4049, Block 4050, Block 4051, Block 4052, Block 4053, Block 4054, Block 4055, Block 4056, Block 4057, Block 4058, Block 4059, Block 4060, Block 4061, Block 4062, Block 4067; Block Group 5: Block 5000, Block 5001, Block 5002, Block 5003, Block 5004, Block 5005, Block 5006, Block 5007, Block 5012, Block 5013, Block 5014, Block 5015, Block 5016; Precinct Monroe 1, Precinct Monroe 2.

District 28: Guilford County: Precinct Deep River South: Tract 162.02: Block Group 1: Block 1032, Block 1033, Block 1034, Block 1035, Block 1044, Block 1046, Block 1047, Block 1048, Block 1049, Block 1050, Block 1055, Block 1056, Block 1121, Block 1122, Block 1123, Block 1124, Block 1125, Block 1126, Block 1127, Block 1128, Block 1134, Block 1135, Block 1136, Block 1137, Block 1141, Block 1142, Block 1143, Block 1144, Block 1145, Block 1146; Precinct Fentress 1, Precinct Friendship 1, Precinct Friendship 2, Precinct GB 03, Precinct GB 04, Precinct GB 05, Precinct GB 06: Tract 127.05: Block Group 2: Block 2000, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022; Tract 127.06: Block Group 2: Block 2000, Block 2001, Block 2004, Block 2005, Block 2006, Block 2007, Block 2011, Block 2013; Tract 127.07: Block Group 1: Block 1002, Block 1003, Block 1004, Block 1005, Block 1006; Tract 128.03: Block Group 1: Block 1001, Block 1003, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1999; Tract 154: Block Group 6: Block 6008; Precinct GB 46, Precinct GB 52: Tract 113: Block Group 2: Block 2015, Block 2016, Block 2019, Block 2020, Block 2021; Tract 114: Block Group 5: Block 5006, Block 5007, Block 5008; Tract 126.04: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1011, Block 1012, Block 1013, Block 1026, Block 1027; Precinct GB 53, Precinct GB 64: Tract 162.02: Block Group 1: Block 1000, Block 1001, Block 1036, Block 1037, Block 1038, Block 1039, Block 1040, Block 1133, Block 1147, Block 1148; Tract 164.03: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1010, Block 1011, Block 1012, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1029; Tract 165.03: Block Group 1: Block 1000, Block 1001, Block 1010; Precinct GB 65, Precinct GB 66, Precinct GB 67, Precinct GB 68, Precinct GB 69, Precinct GB 70, Precinct GB 71, Precinct GB 72, Precinct GB 73, Precinct GB 74, Precinct GB 75, Precinct HP, Precinct HP 01, Precinct HP 02, Precinct HP 03, Precinct HP 04, Precinct HP 05, Precinct HP 06, Precinct HP 07, Precinct HP 08, Precinct HP 09, Precinct HP 10, Precinct HP 11, Precinct HP 12, Precinct HP 17, Precinct HP 18, Precinct HP 19A, Precinct HP 19B, Precinct HP 20A, Precinct HP 20B, Precinct HP 26, Precinct HP 27, Precinct Jamestown 1, Precinct Jamestown 2, Precinct Jamestown 3, Precinct Jamestown 4, Precinct Jamestown 5, Precinct Jefferson 1: Tract 127.06: Block Group 2: Block 2002, Block 2003; Tract 128.03: Block Group 1: Block 1000, Block 1002, Block 1004, Block 1011, Block 1017, Block 1033, Block 1034, Block 1080; Precinct Jefferson 2: Tract 111.02: Block Group 2: Block 2000; Tract 127.07: Block Group 1: Block 1000, Block 1001; Tract 128.03: Block Group 1: Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1035, Block 1036, Block 1037, Block 1038, Block 1039, Block 1042, Block 1049, Block 1051, Block 1055, Block 1066, Block 1067, Block 1069, Block 1070, Block 1074, Block 1075, Block 1076, Block 1077; Block Group 2: Block 2000, Block 2001, Block 2007, Block 2012, Block 2013, Block 2038; Tract 153: Block Group 3: Block 3036; Precinct Jefferson 3, Precinct Pleasant Garden 1, Precinct Pleasant Garden 2, Precinct Sumner 1, Precinct Sumner 2, Precinct Sumner 3, Precinct Sumner 4.

District 29: Montgomery County, Randolph County.

District 30: Alleghany County, Stokes County, Surry County, Yadkin County.

District 31: Forsyth County: Precinct 011, Precinct 012, Precinct 013: Tract 33.07: Block Group 1: Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1033,

Block 1036, Block 1037, Block 1038, Block 1039, Block 1040, Block 1041, Block 1042, Block 1043, Block 1044, Block 1045, Block 1053, Block 1054, Block 1055, Block 1056, Block 1057, Block 1058, Block 1059, Block 1060, Block 1061, Block 1062, Block 1063, Block 1064, Block 1065, Block 1066, Block 1067, Block 1068, Block 1069, Block 1070, Block 1071, Block 1072, Block 1999; Tract 33.08: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1022, Block 1023, Block 1024, Block 1025, Block 1047; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2024, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2035, Block 2036, Block 2037, Block 2038, Block 2039, Block 2040, Block 2041, Block 2042, Block 2043, Block 2044, Block 2045, Block 2046, Block 2047, Block 2048, Block 2049, Block 2050, Block 2051, Block 2052, Block 2053, Block 2054, Block 2055, Block 2056, Block 2057, Block 2999; Precinct 014, Precinct 015, Precinct 021, Precinct 031, Precinct 032: Tract 28.05: Block Group 1: Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1025, Block 1026, Block 1027, Block 1050, Block 1051, Block 1052, Block 1053, Block 1054, Block 1082, Block 1083, Block 1084, Block 1085, Block 1086, Block 1087, Block 1088, Block 1089, Block 1090, Block 1091, Block 1092, Block 1093, Block 1094, Block 1095, Block 1096, Block 1097, Block 1098, Block 1100; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3040, Block 3041, Block 3042, Block 3043, Block 3044, Block 3045, Block 3046, Block 3047, Block 3048, Block 3049, Block 3052, Block 3053, Block 3057, Block 3058, Block 3059, Block 3060, Block 3061, Block 3062, Block 3064, Block 3065, Block 3066, Block 3069, Block 3070, Block 3071, Block 3072, Block 3073, Block 3074, Block 3075, Block 3076, Block 3077, Block 3078, Block 3079, Block 3080, Block 3995, Block 3996, Block 3997, Block 3998, Block 3999; Block Group 4: Block 4000, Block 4001, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 4007, Block 4008, Block 4009, Block 4010, Block 4011, Block 4012, Block 4017, Block 4018; Precinct 033: Tract 28.07: Block Group 1: Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021; Tract 29.01: Block Group 2: Block 2005, Block 2006, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2022, Block 2023, Block 2024, Block 2029, Block 2030, Block 2031, Block 2033; Precinct 034, Precinct 043: Tract 33.03: Block Group 3: Block 3034, Block 3035, Block 3036, Block 3037; Tract 34.02: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035; Block Group 2: Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2021, Block 2023, Block 2024, Block 2025, Block 2026, Block 2029, Block 2030, Block 2031, Block 2035; Precinct 051, Precinct 052, Precinct 053, Precinct 054, Precinct 055, Precinct 061, Precinct 062, Precinct 063, Precinct 064,

Precinct 065, Precinct 066, Precinct 067, Precinct 068, Precinct 071, Precinct 072, Precinct 073, Precinct 074, Precinct 075, Precinct 091, Precinct 092, Precinct 101: Tract 28.01: Block Group 3: Block 3028, Block 3029, Block 3030, Block 3031, Block 3032, Block 3033, Block 3034, Block 3035, Block 3040, Block 3041, Block 3042, Block 3043, Block 3044, Block 3045, Block 3046, Block 3047, Block 3048, Block 3061, Block 3062, Block 3063; Tract 28.04: Block Group 1: Block 1018, Block 1019, Block 1020, Block 1021, Block 1022; Block Group 3: Block 3025, Block 3026, Block 3027, Block 3028; Tract 28.05: Block Group 3: Block 3063; Block Group 4: Block 4013, Block 4014, Block 4015, Block 4016, Block 4019; Precinct 111, Precinct 112, Precinct 123: Tract 39.04: Block Group 1: Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037; Block Group 2: Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029; Precinct 131, Precinct 132, Precinct 133, Precinct 507: Tract 33.03: Block Group 2: Block 2000, Block 2057, Block 2058, Block 2059; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3028, Block 3029; Precinct 701, Precinct 702, Precinct 703, Precinct 704: Tract 10: Block Group 3: Block 3009; Tract 21: Block Group 1: Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011; Block Group 3: Block 3000, Block 3001, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010; Tract 22: Block Group 4: Block 4014, Block 4015, Block 4018, Block 4019; Precinct 705: Tract 21: Block Group 2, Block Group 3: Block 3002, Block 3003; Tract 22: Block Group 5: Block 5026, Block 5027, Block 5033, Block 5034, Block 5035, Block 5036, Block 5037, Block 5038, Block 5039, Block 5040, Block 5041; Precinct 706, Precinct 707: Tract 22: Block Group 5: Block 5006, Block 5007, Block 5008, Block 5009, Block 5010, Block 5011, Block 5012, Block 5013, Block 5014, Block 5015, Block 5016, Block 5017, Block 5018, Block 5019, Block 5020, Block 5021, Block 5022, Block 5023, Block 5024, Block 5025; Tract 25.02: Block Group 2: Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2021, Block 2022, Block 2023, Block 2024, Block 2998, Block 2999; Precinct 801, Precinct 802, Precinct 803, Precinct 804, Precinct 805, Precinct 806, Precinct 807, Precinct 808: Tract 39.04: Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2015, Block 2016; Tract 39.05: Block Group 1: Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009; Tract 39.06: Block Group 3: Block 3009, Block 3010, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018; Precinct 809, Precinct 901, Precinct 906, Precinct 907.

District 32: Forsyth County: Precinct 013: Tract 33.08: Block Group 2: Block 2023, Block 2025, Block 2026, Block 2058, Block 2059, Block 2060, Block 2061, Block 2062, Block 2063, Block 2064, Block 2065, Block 2998; Precinct 032: Tract 28.04: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014; Tract 28.06: Block Group 1: Block 1009, Block 1010, Block 1011, Block 1031; Precinct 033: Tract 27.02: Block Group 1: Block 1000, Block 1001, Block 1012; Tract 28.05: Block Group 2: Block 2027, Block 2028; Tract

28.06: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038; Block Group 2; Precinct 042, Precinct 043; Tract 33.03: Block Group 3: Block 3032, Block 3033, Block 3038, Block 3039; Tract 34.01: Block Group 1: Block 1000, Block 1001, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1033, Block 1034, Block 1035, Block 1036, Block 1041, Block 1042, Block 1043, Block 1044, Block 1045, Block 1046, Block 1047, Block 1048, Block 1049, Block 1050, Block 1051, Block 1056, Block 1057, Block 1058; Block Group 2; Tract 34.02: Block Group 1: Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026; Block Group 2: Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2022, Block 2032, Block 2033, Block 2034, Block 2036, Block 2037; Precinct 081, Precinct 082, Precinct 083, Precinct 101; Tract 28.04: Block Group 1: Block 1016, Block 1017, Block 1999; Block Group 2: Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3011, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3024, Block 3029, Block 3030; Precinct 122, Precinct 123; Tract 39.03: Block Group 2: Block 2009, Block 2010, Block 2011, Block 2012, Block 2013; Precinct 201, Precinct 203, Precinct 204, Precinct 205, Precinct 206, Precinct 207, Precinct 301, Precinct 302, Precinct 303, Precinct 304, Precinct 305, Precinct 306, Precinct 401, Precinct 402, Precinct 403, Precinct 404, Precinct 405, Precinct 501, Precinct 502, Precinct 503, Precinct 504, Precinct 505, Precinct 506, Precinct 507; Tract 33.03: Block Group 2: Block 2001, Block 2002, Block 2003, Block 2006, Block 2007, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2020, Block 2021, Block 2023, Block 2024, Block 2035, Block 2036, Block 2037, Block 2038, Block 2039, Block 2040, Block 2041, Block 2042, Block 2043, Block 2052, Block 2053, Block 2054, Block 2055, Block 2056, Block 2060, Block 2061, Block 2062, Block 2998; Block Group 3: Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3024, Block 3025, Block 3026, Block 3027, Block 3030, Block 3031, Block 3040, Block 3041; Tract 34.01: Block Group 1: Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1037, Block 1038, Block 1039, Block 1040, Block 1052, Block 1053, Block 1054, Block 1055; Precinct 601, Precinct 602, Precinct 603, Precinct 604, Precinct 605, Precinct 606, Precinct 607, Precinct 704; Tract 10: Block Group 3: Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3010, Block 3011; Precinct 705; Tract 38.02: Block Group 1: Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block

1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038, Block 1039, Block 1040, Block 1041, Block 1042, Block 1043, Block 1044, Block 1045, Block 1046, Block 1047, Block 1048, Block 1049, Block 1050, Block 1997, Block 1998, Block 1999; Block Group 3: Block 3000; Tract 38.04: Block Group 1: Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016; Precinct 707: Tract 38.02: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003; Precinct 708, Precinct 709, Precinct 808; Tract 39.03: Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008; Precinct 902, Precinct 903, Precinct 904, Precinct 905, Precinct 908, Precinct 909.

District 33: Davidson County, Guilford County: Precinct Deep River South: Tract 162.02: Block Group 1: Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1075, Block 1076, Block 1079, Block 1087, Block 1088, Block 1092, Block 1093, Block 1094, Block 1096, Block 1097, Block 1098, Block 1099, Block 1100, Block 1101, Block 1108, Block 1115, Block 1118, Block 1119, Block 1138, Block 1139, Block 1140; Tract 163.01: Block Group 2: Block 2012; Precinct HP 13, Precinct HP 14, Precinct HP 15, Precinct HP 16, Precinct HP 21, Precinct HP 22, Precinct HP 23, Precinct HP 24, Precinct HP 25.

District 34: Davie County, Rowan County.

District 35: Mecklenburg County: Precinct 201, Precinct 216, Precinct 218, Precinct 219, Precinct 220, Precinct 221, Precinct 234, Precinct 235, Precinct 236; Union County.

District 36: Cabarrus County, Iredell County: Precinct Coddle Creek 1, Precinct Coddle Creek 2, Precinct Coddle Creek 3, Precinct Coddle Creek 4: Tract 613: Block Group 1: Block 1019, Block 1066, Block 1067, Block 1068, Block 1070; Tract 614: Block Group 5: Block 5000, Block 5001, Block 5002, Block 5062, Block 5063, Block 5064, Block 5065, Block 5073, Block 5999; Block Group 8: Block 8029, Block 8030, Block 8031, Block 8032, Block 8033, Block 8034, Block 8035, Block 8038, Block 8039, Block 8044, Block 8045, Block 8046, Block 8047, Block 8048, Block 8049, Block 8050, Block 8051, Block 8052, Block 8053, Block 8054, Block 8055, Block 8056, Block 8057, Block 8061; Tract 616: Block Group 5: Block 5007, Block 5008, Block 5010, Block 5011, Block 5013, Block 5016, Block 5017, Block 5018, Block 5019, Block 5020, Block 5025, Block 5031; Block Group 6: Block 6010, Block 6011, Block 6012, Block 6013, Block 6014, Block 6016, Block 6019, Block 6020, Block 6021, Block 6022, Block 6023, Block 6031, Block 6032, Block 6033, Block 6034, Block 6035, Block 6036.

District 37: Mecklenburg County: Precinct 001, Precinct 002, Precinct 004, Precinct 005, Precinct 006, Precinct 007, Precinct 008, Precinct 009, Precinct 010, Precinct 015, Precinct 017, Precinct 018, Precinct 020, Precinct 021, Precinct 029, Precinct 032, Precinct 033, Precinct 034, Precinct 035, Precinct 037, Precinct 038, Precinct 044, Precinct 045, Precinct 046, Precinct 047, Precinct 049, Precinct 050, Precinct 051, Precinct 061, Precinct 062, Precinct 063, Precinct 064, Precinct 066, Precinct 083, Precinct 084, Precinct 094, Precinct 095, Precinct 099, Precinct 102, Precinct 108,

Precinct 109, Precinct 115, Precinct 116, Precinct 117, Precinct 123, Precinct 124, Precinct 125, Precinct 130, Precinct 203, Precinct 205.

District 38: Mecklenburg County: Precinct 011, Precinct 012, Precinct 013, Precinct 016, Precinct 022, Precinct 023, Precinct 024, Precinct 025, Precinct 027: Tract 52: Block Group 2, Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012; Block Group 4: Block 4002, Block 4003, Block 4004, Block 4005, Block 4007, Block 4008, Block 4009, Block 4010, Block 4011, Block 4012, Block 4013, Block 4014, Block 4015, Block 4016, Block 4017, Block 4018, Block 4019, Block 4025, Block 4026, Block 4027, Block 4028, Block 4030, Block 4031, Block 4038; Precinct 031, Precinct 039, Precinct 040, Precinct 041, Precinct 052, Precinct 053, Precinct 054, Precinct 055, Precinct 056: Tract 51: Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017; Tract 52: Block Group 3: Block 3004, Block 3005; Precinct 078, Precinct 079, Precinct 080, Precinct 081, Precinct 089, Precinct 098, Precinct 120, Precinct 122, Precinct 134, Precinct 138, Precinct 200, Precinct 209, Precinct 210, Precinct 211: Tract 61.01: Block Group 1: Block 1004, Block 1005, Block 1006, Block 1011, Block 1062, Block 1063; Tract 61.02: Block Group 3: Block 3002, Block 3003, Block 3004, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3024, Block 3025, Block 3030, Block 3040; Precinct 222, Precinct 223, Precinct 224, Precinct 225: Tract 58.06: Block Group 1: Block 1012, Block 1013, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1037, Block 1038, Block 1039; Precinct 228, Precinct 229, Precinct 230, Precinct 243, Precinct 77, Precinct 97.

District 39: Mecklenburg County: Precinct 019, Precinct 036, Precinct 048, Precinct 057, Precinct 058, Precinct 059, Precinct 065, Precinct 067, Precinct 068, Precinct 069, Precinct 070, Precinct 071, Precinct 072, Precinct 073, Precinct 074, Precinct 075, Precinct 076, Precinct 085, Precinct 086, Precinct 087, Precinct 088, Precinct 090, Precinct 091, Precinct 092, Precinct 093, Precinct 096, Precinct 100, Precinct 101, Precinct 103, Precinct 106, Precinct 110, Precinct 111, Precinct 112, Precinct 113, Precinct 114, Precinct 118, Precinct 119, Precinct 121, Precinct 129, Precinct 131, Precinct 136, Precinct 137, Precinct 139, Precinct 140, Precinct 144, Precinct 215, Precinct 217, Precinct 225: Tract 58.06: Block Group 1: Block 1034, Block 1035, Block 1036, Block 1040, Block 1041, Block 1042, Block 1043, Block 1044, Block 1045, Block 1046, Block 1047, Block 1048, Block 1049, Block 1050, Block 1051, Block 1052, Block 1053, Block 1054, Block 1055, Block 1056, Block 1057, Block 1058, Block 1059, Block 1060, Block 1061, Block 1062, Block 1063, Block 1064, Block 1065, Block 1066, Block 1067, Block 1070, Block 1076, Block 1078, Block 1080, Block 1081, Block 1082, Block 1083, Block 1084, Block 1085, Block 1086, Block 1087, Block 1088, Block 1089, Block 1090, Block 1091, Block 1092; Block Group 2; Tract 58.07: Block Group 1: Block 1011, Block 1012, Block 1013, Block 1014; Precinct 226, Precinct 227, Precinct 231, Precinct 232, Precinct 233.

District 40: Mecklenburg County: Precinct 003, Precinct 014, Precinct 026, Precinct 027: Tract 52: Block Group 1: Block 1000, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013; Tract 53.01: Block Group 1: Block 1000, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block



1010, Block 1011, Block 1012, Block 1015, Block 1016, Block 1017, Block 1019, Block 1020, Block 1021, Block 1022, Block 1036, Block 1037; Precinct 028, Precinct 030, Precinct 042, Precinct 043, Precinct 056: Tract 50: Block Group 2: Block 2000, Block 2001, Block 2005; Tract 51: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030; Tract 52: Block Group 1: Block 1001; Tract 53.01: Block Group 1: Block 1001, Block 1002, Block 1013, Block 1014, Block 1018; Precinct 060, Precinct 082, Precinct 104, Precinct 105, Precinct 107, Precinct 126, Precinct 127, Precinct 128, Precinct 132, Precinct 133, Precinct 135, Precinct 141, Precinct 142, Precinct 143, Precinct 145, Precinct 202, Precinct 204, Precinct 206, Precinct 207, Precinct 208, Precinct 211: Tract 55.03: Block Group 1: Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1060, Block 1061, Block 1062, Block 1063, Block 1064, Block 1065, Block 1066; Tract 61.02: Block Group 3: Block 3000, Block 3001, Block 3005, Block 3006, Block 3007, Block 3026, Block 3027, Block 3028, Block 3029, Block 3031, Block 3032; Precinct 212, Precinct 213, Precinct 214, Precinct 237, Precinct 238, Precinct 239, Precinct 240, Precinct 241, Precinct 242.

District 41: Gaston County: Precinct Alexis, Precinct Lucia, Precinct Mt Holly 1, Precinct Mt Holly 2, Precinct Stanley 1, Precinct Stanley 2; Iredell County: Precinct Barringer, Precinct Bethany, Precinct Chambersburg, Precinct Coddle Creek 4: Tract 612: Block Group 9: Block 9031, Block 9032, Block 9033, Block 9034, Block 9035, Block 9036, Block 9051, Block 9053; Tract 613: Block Group 1: Block 1017, Block 1018, Block 1051, Block 1052, Block 1055, Block 1056, Block 1057, Block 1058, Block 1061, Block 1063, Block 1064, Block 1065, Block 1078; Tract 614: Block Group 3: Block 3001; Block Group 5: Block 5003, Block 5004, Block 5005, Block 5006, Block 5007, Block 5008, Block 5009, Block 5014, Block 5017, Block 5018, Block 5019, Block 5020, Block 5021, Block 5025, Block 5026, Block 5030, Block 5032, Block 5033, Block 5042, Block 5046, Block 5047, Block 5048, Block 5059, Block 5060, Block 5061, Block 5066, Block 5067, Block 5068, Block 5069, Block 5070, Block 5072, Block 5076, Block 5077, Block 5078, Block 5081, Block 5082, Block 5083, Block 5998; Precinct Cool Springs, Precinct Davidson 1, Precinct Davidson 2, Precinct Fallstown, Precinct Statesville 1, Precinct Statesville 2, Precinct Statesville 3, Precinct Statesville 4, Precinct Statesville 5, Precinct Statesville 6; Lincoln County.

District 42: Catawba County, Iredell County: Precinct Concord, Precinct Eagle Mills, Precinct New Hope, Precinct Olin, Precinct Sharpesburg, Precinct Shiloh, Precinct Turnersburg, Precinct Union Grove.

District 43: Gaston County: Precinct Armstrong, Precinct Ashbrook, Precinct Belmont 1, Precinct Belmont 2, Precinct Belmont 3, Precinct Bessemer City 1, Precinct Bessemer City 2, Precinct Catawba Heights, Precinct Cherryville 1, Precinct Cherryville 2, Precinct Cherryville 3, Precinct Cramerton, Precinct Crowders Mountain, Precinct Dallas 1, Precinct Dallas 2, Precinct Flint Grove, Precinct Forest Heights, Precinct Gardner Park, Precinct Gaston Day, Precinct Grier, Precinct Health Center, Precinct High Shoals, Precinct Highland, Precinct Landers Chapel, Precinct Lowell, Precinct Mcadenville, Precinct Myrtle, Precinct New Hope, Precinct Pleasant Ridge, Precinct Ranlo, Precinct Robinson 1, Precinct Robinson 2, Precinct Sherwood, Precinct South

Gastonia, Precinct Southpoint, Precinct Tryon, Precinct Union, Precinct Victory, Precinct Wood Hill, Precinct York Chester.

District 44: Burke County, Caldwell County.

District 45: Alexander County, Ashe County, Watauga County, Wilkes County.

District 46: Cleveland County, Rutherford County.

District 47: Avery County, Haywood County: Precinct Allens Creek, Precinct Beaverdam 1, Precinct Beaverdam 2, Precinct Beaverdam 3, Precinct Beaverdam 4, Precinct Beaverdam 5/6, Precinct Beaverdam 7, Precinct Big Creek, Precinct Clyde North, Precinct Clyde South, Precinct Crabtree, Precinct Fines Creek 1, Precinct Fines Creek 2, Precinct Hazelwood, Precinct Iron Duff, Precinct Ivy Hill, Precinct Jonathan Creek, Precinct Lake Junaluska, Precinct Saunook, Precinct Waynesville Center, Precinct Waynesville East, Precinct Waynesville South 1, Precinct Waynesville South 2, Precinct Waynesville West, Precinct White Oak; Madison County, McDowell County, Mitchell County, Yancey County.

District 48: Buncombe County: Precinct Asheville 18, Precinct Asheville 19, Precinct Asheville 24: Tract 12: Block Group 5: Block 5001, Block 5002, Block 5018, Block 5019, Block 5020, Block 5021, Block 5022, Block 5023, Block 5024, Block 5025, Block 5029, Block 5030, Block 5033, Block 5034, Block 5992, Block 5993, Block 5994, Block 5995; Tract 23.02: Block Group 3: Block 3014, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3028, Block 3029, Block 3030, Block 3031, Block 3043, Block 3044, Block 3045, Block 3046, Block 3050, Block 3051, Block 3052, Block 3053, Block 3054, Block 3055, Block 3056, Block 3057, Block 3060, Block 3062, Block 3992, Block 3993, Block 3994; Precinct Asheville 29, Precinct Averys Creek, Precinct Biltmore, Precinct Broad River, Precinct Fairview 1, Precinct Fairview 2, Precinct Limestone 1, Precinct Limestone 2, Precinct Limestone 3, Precinct Limestone 4, Precinct Lower Hominy 1, Precinct Lower Hominy 3, Precinct Upper Hominy 1 & 3; Henderson County, Polk County.

District 49: Buncombe County: Precinct Asheville 01, Precinct Asheville 02, Precinct Asheville 03, Precinct Asheville 04, Precinct Asheville 05, Precinct Asheville 06, Precinct Asheville 07, Precinct Asheville 08, Precinct Asheville 09, Precinct Asheville 10, Precinct Asheville 11, Precinct Asheville 12, Precinct Asheville 13, Precinct Asheville 14, Precinct Asheville 15, Precinct Asheville 16, Precinct Asheville 17, Precinct Asheville 20, Precinct Asheville 21, Precinct Asheville 22, Precinct Asheville 23, Precinct Asheville 24: Tract 12: Block Group 5: Block 5005, Block 5006, Block 5007, Block 5008, Block 5009, Block 5010, Block 5011, Block 5012, Block 5013, Block 5026, Block 5027, Block 5028; Tract 13: Block Group 2: Block 2015, Block 2016, Block 2018, Block 2023, Block 2024, Block 2025, Block 2027; Tract 23.02: Block Group 3: Block 3064, Block 3987; Tract 25.02: Block Group 4: Block 4016, Block 4017, Block 4018, Block 4019, Block 4020, Block 4021, Block 4024, Block 4025, Block 4026, Block 4027, Block 4028, Block 4029, Block 4030; Block Group 6: Block 6000, Block 6007, Block 6008, Block 6009, Block 6010, Block 6011, Block 6012, Block 6013, Block 6014, Block 6015, Block 6016, Block 6017, Block 6019, Block 6020, Block 6021, Block 6022, Block 6023, Block 6024, Block 6026, Block 6027, Block 6028, Block 6029, Block 6030; Precinct Asheville 25, Precinct Asheville 26, Precinct Asheville 27, Precinct Asheville 28, Precinct Black Mountain 1, Precinct Black Mountain 2, Precinct Black Mountain 3, Precinct Black Mountain 4, Precinct Black Mountain 5, Precinct Flat Creek, Precinct French Broad, Precinct Hazel 1, Precinct Hazel 2, Precinct Ivy 1 & 2, Precinct Leicester 1, Precinct Leicester 2 & Sandy Mush, Precinct Lower Hominy 2, Precinct North Buncombe,

Precinct Reems Creek, Precinct Reynolds, Precinct Riceville 1 & Swannanoa 2, Precinct Riceville 2 & Swannanoa 3, Precinct Swannanoa 1, Precinct Upper Hominy 2, Precinct Weaverville, Precinct West Buncombe 1, Precinct West Buncombe 2, Precinct Woodfin, Precinct Woodland Hills.

District 50: Cherokee County, Clay County, Graham County, Haywood County: Precinct Cecil, Precinct East Fork, Precinct Pigeon, Precinct Pigeon Center; Jackson County, Macon County, Swain County, Transylvania County."

**SECTION 4.** G.S. 120-1(b) and (c) read as rewritten:

"(b) The names and boundaries of precincts (voting tabulation districts), tracts, block groups, and blocks specified in this section are ~~as they were legally defined and recognized in the 2000 United States Census. Boundaries are~~ as shown on the Redistricting Census 2000 TIGER Files, with modifications made by the Legislative Services Office on its computer database as of ~~May 1, 2001, October 20, 2003,~~ to reflect precincts ~~divided or renamed~~updated as outlined in subsection (c) of this section. ~~However, in Robeson County PHILADELPHUS is, in fact, PHILADELPHUS, and in Vance County SANDY SCREEK is, in fact, SANDY CREEK. If the boundary line between Iredell and Mecklenburg Counties in the Redistricting Census 2000 TIGER Files conflicts with that provided by Section 1 of Session Law 1998-15 as amended, Section 1 of Session Law 1998-15 as amended prevails to the extent of conflict. However, the boundary corner between Forsyth, Stokes, and Rockingham Counties is as established by Chapter 23, Public Laws of 1848-49.~~

(c) The Legislative Services Office modified on its computer database some of the precincts shown on the Redistricting Census 2000 TIGER Files to reflect ~~precincts divided or renamed by county boards of elections after the TIGER Files were completed.~~ with greater accuracy the precincts as they existed as of October 20, 2003, including changes made to precincts after the TIGER Files were completed. As a result, precincts are shown differently on the Legislative Services Office computer database from the TIGER Files in ~~the following counties: several counties.~~ Those changes include actions by county boards of elections to divide, merge, and otherwise realign precincts. Where a realignment of precinct boundaries by a county board of elections is impossible to reflect in the database using Census geography, the Legislative Services Office modified the database by either merging two precincts or by approximating the boundary using Census geography. The following is a list, for informational purposes only, of precincts shown in the TIGER Files, the geography of which has been modified in the Legislative Services Office computer database:

- (1) ~~Buncombe County:~~
  - a. ~~Precinct Asheville 4 in TIGER is shown as Precincts Asheville 4 and Asheville 28.~~
  - b. ~~Precinct Asheville 22 in TIGER is shown as Precincts Asheville 22 and Asheville 27.~~
  - e. ~~Precinct Asheville 19 in TIGER is shown as Precincts Asheville 19 and Asheville 29.~~
  - d. ~~Precinct Riceville Swannanoa 2 CRU in TIGER is shown as Precincts Riceville Swannanoa 2 CRU and Riceville Swannanoa CRU 2.~~
  - e. ~~Precinct Black Mountain 3 in TIGER is shown as Precincts Black Mountain 3 and Black Mountain 4.~~

- (2) ~~Cabarrus County:~~
  - a. ~~Precinct 0202 in TIGER is shown as Precincts 0202 and 0207.~~
  - b. ~~Precinct 1209 in TIGER is shown as Precincts 1209 and 1212.~~
- (3) ~~Caldwell County: Precinct Lovelady in TIGER is shown as Precincts Lovelady 1 and Lovelady 2.~~
- (4) ~~Chatham County:~~
  - a. ~~Precinct North Williams in TIGER is shown as Precincts North Williams and North Williams 2.~~
  - b. ~~Precinct East Williams in TIGER is shown as Precincts East Williams and East Williams 2.~~
- (5) ~~Craven County: Precinct Havelock in TIGER is shown as Precincts Havelock East and Havelock West.~~
- (6) ~~Franklin County: Precinct Harris in TIGER is shown as Precincts East Harris and West Harris.~~
- (7) ~~Guilford County: Precinct Greensboro 40 in TIGER is shown as Precincts Greensboro 40A and Greensboro 40B.~~
- (8) ~~Johnston County: Precinct East Clayton in TIGER is shown as Precincts East Clayton and South Clayton.~~
- (9) ~~Orange County:~~
  - a. ~~Precinct Frank Porter Graham in TIGER is renamed Precinct Damascus 1.~~
  - b. ~~Precinct Dogwood Acres in TIGER is shown as Precincts Dogwood Acres and Damascus 2.~~
- (10) ~~Rowan County:~~
  - a. ~~Precinct Bostian Crossroads in TIGER is shown as Precincts Bostian Crossroads and Rock Grove.~~
  - b. ~~Precinct Enochville in TIGER is shown as Precincts Enochville and West Enochville.~~
- (11) ~~Wake County:~~
  - a. ~~Precinct 01-32 in TIGER is shown as Precincts 01-32 and 01-49.~~
  - b. ~~Precinct 07-06 in TIGER is shown as Precincts 07-06 and 07-11.~~
  - e. ~~Precinct 10-01 in TIGER is shown as Precincts 10-01 and 10-04.~~
  - d. ~~Precinct 10-02 in TIGER is shown as Precincts 10-02 and 10-03.~~
  - e. ~~Precinct 01-43 in TIGER is shown as Precincts 01-43 and 01-51.~~
  - f. ~~Precinct 07-02 in TIGER is shown as Precincts 07-02 and 07-12.~~
  - g. ~~Precinct 08-04 in TIGER is shown as Precincts 08-04 and 08-08.~~
  - h. ~~Precinct 12-02 in TIGER is shown as Precincts 12-02 and 12-06.~~
  - i. ~~Precinct 18-03 in TIGER is shown as Precincts 18-03 and 18-08.~~
  - j. ~~Precinct 19-02 in TIGER is shown as Precincts 19-02 and 19-06.~~

- k. ~~Precinct 19-03 in TIGER is shown as Precincts 19-03 and 19-07.~~
  - l. ~~Precinct 19-04 in TIGER is shown as Precincts 19-04 and 19-08.~~
  - m. ~~Precinct 20-04 in TIGER is shown as Precincts 20-04 and 20-10.~~
  - n. ~~Precinct 01-32 in TIGER is shown as Precincts 01-32 and 01-49.~~
- (1) Anson County: All precincts except Burnsville, Peachland, and White Store.
  - (2) Buncombe County: Asheville 4, 15, 22, 19, Riceville Swannanoa 2 CRU, and Black Mountain 3.
  - (3) Cabarrus County: 0202 and 1209.
  - (4) Caldwell County: Lovelady 2.
  - (5) Carteret County: Cape Carteret, Cedar Point, Indian Beach, Salter Path, Newport 1, and Newport 2.
  - (6) Caswell County: Yanceyville 2 and Yanceyville 4.
  - (7) Chatham County: East Williams, North Williams, and West Williams.
  - (8) Craven County: Havelock.
  - (9) Cumberland County: Beaver Dam, Cedar Creek, Arran Hills, Cumberland 1, Hope Mills 1, and Stoney Point.
  - (10) Dare County: Manteo.
  - (11) Gates County: 1 and 5.
  - (12) Guilford County: Greensboro 40, North Clay, High Point 19, High Point 20, Center Grove 1, and Summerfield 3.
  - (13) Hertford County: Murfreesboro 2 and Murfreesboro 3.
  - (14) Iredell County: Coddle Creek 1 through 4 and Statesville 1 through 6.
  - (15) Johnston County: East Clayton, Pleasant Grove, and Wilders.
  - (16) Lee County: West Sanford 2.
  - (17) Lincoln County: North Brook I/II, Iron Station, Lowesville, Denver, Hickory Grove, Pumpkin Center, and Triangle.
  - (18) Mecklenburg County: 77, 97, 121, 122, 138, 140, 142, 143, 144, 202, 206, 225, 228, 239, 240, and 242.
  - (19) Moore County: Eureka and Knollwood.
  - (20) New Hanover County: Harnett 2 and 8.
  - (21) Onslow County: Voting Districts Not Defined.
  - (22) Orange County: Booker Creek, Cedar Falls, Dogwood Acres, and Frank Porter Graham.
  - (23) Pasquotank County: Precincts Mt. Hermon, Providence, 1A, 1B, 2A, 2B, 3A, 3B, and 4A.
  - (24) Robeson County: Fairmont 1 and 2 and Red Springs 1 and 2.
  - (25) Rowan County: Bostian Crossroads, Enochville, Franklin, and Granite Quarry.
  - (26) Union County: 22 and 33.
  - (27) Wake County: 01-22, 01-32, 01-43, 04-09, 04-11, 05-00, 07-02, 07-05, 07-06, 08-01, 08-03, 08-04, 09-02, 10-01, 10-02, 12-01, 12-02, 12-04, 13-02, 13-03, 15-01, 15-02, 16-01, 16-04, 17-01, 17-02, 17-05, 17-07, 18-02, 18-03, 19-02, 19-03, 19-04, 20-01, 20-03, 20-04, and 20-06.

The database is available for public inspection, and where it differs from the foregoing list, the database prevails.

In additional instances, precincts shown in the TIGER Files have not been changed geographically, but the names that appear in TIGER have been modified to correct misspellings, to standardize naming, or to reflect more closely the names used by county boards of elections and the State Board of Elections."

**SECTION 5.(a)** If by 10:00 A.M. on February 9, 2004, an act to redistrict the State House of Representatives or the State Senate has not been approved under section 5 of the Voting Rights Act of 1965 or is otherwise prohibited by law from being implemented, the State Board of Elections shall postpone the primary election for all offices until a date the State Board determines to be fair to all parties, potential candidates, and voters. The State Board shall make its decision as soon as practical, taking into account the likelihood of receiving a final approval of any pending redistricting plan.

**SECTION 5.(b)** If the filing period or primary election or both for all offices are postponed under this section, the State Board of Elections may issue temporary orders pursuant to that postponement that may change, modify, delete, amend, or add to any statute contained in Chapter 163 of the General Statutes, any rules contained in Title 8 of the North Carolina Administrative Code, or any other election regulation or guideline that may affect the 2004 primaries and general election for those offices. Those orders shall include a primary schedule and if necessary an altered schedule leading to the general election on November 2, 2004. The orders shall include reset dates for absentee balloting that shall as nearly as practical provide the same amount of time for voters and election officials set forth in Article 20 of Chapter 163 of the General Statutes. The State Board shall, as soon as practical, distribute its orders, including a Revised Primary Timetable, to county boards of elections. Adoption of orders under this subsection is not subject to Chapter 150B of the General Statutes.

**SECTION 5.(c)** The State Board of Elections shall be governed by the following limitations:

- (1) Any postponement of the candidate filing period or the primary shall apply to all offices whose primary elections are regularly scheduled on primary day, so that there is one candidate filing period for all those offices and one primary election for all those offices. The postponement shall also apply to any elections to local office held on that date (such as elections for boards of education under G.S. 115C-37) and the filing period for those offices.
- (2) The State Board of Elections does not have the authority to dispense with a second primary. The State Board shall provide for a second primary in its schedule to any candidate entitled to call for a second primary under the provisions of G.S. 163-111.
- (3) The State Board shall set a filing period no shorter than 10 business days.
- (4) Before making its decision to postpone a filing period or primary election under this section, the State Board of Elections shall consult with the President Pro Tempore of the Senate, the Speakers of the House of Representatives, and the leaders of both political parties in the House and Senate.

**SECTION 5.(d)** If the primary election is postponed under subsection (a) of this section, any local act for election of a board of education elected at the primary which provides that persons elected shall take office in July of the year of the election is modified for the 2004 election only to provide that the persons elected shall take office at the next meeting of the board of education after the certification of the election.

**SECTION 5.(e)** For the 2004 primary election only, G.S. 163-112 shall be applied by substituting "10 days" for "30 days" wherever it appears.

**SECTION 5.(f)** The provisions of this section apply during the 2004 election year only.

**SECTION 6.** G.S. 163-1 is amended by adding a new subsection to read:

"(d) If primaries for the State Senate or State House of Representatives are temporarily moved from the date provided in subsection (b) of this section for any election year, all primaries shall be held on the same day."

**SECTION 7.(a)** Chapter 1 of the General Statutes is amended by adding a new Article to read:

"Article 26A.

"Three-Judge Panel for Redistricting Challenges.

**"§ 1-267.1. Three-judge panel for actions challenging plans apportioning or redistricting State legislative or congressional districts.**

(a) Any action challenging the validity of any act of the General Assembly that apportions or redistricts State legislative or congressional districts shall be filed in the Superior Court of Wake County and shall be heard and determined by a three-judge panel of the Superior Court of Wake County organized as provided by subsection (b) of this section.

(b) Whenever any person files in the Superior Court of Wake County any action challenging the validity of any act of the General Assembly that apportions or redistricts State legislative or congressional districts, a copy of the complaint shall be served upon the senior resident superior court judge of Wake County, who shall be the presiding judge of the three-judge panel required by subsection (a) of this section. Upon receipt of that complaint, the senior resident superior court judge of Wake County shall notify the Chief Justice, who shall appoint two additional resident superior court judges to the three-judge panel of the Superior Court of Wake County to hear and determine the action. Before making those appointments, the Chief Justice shall consult with the North Carolina Conference of Superior Court Judges, which shall provide the Chief Justice with a list of recommended appointments. To ensure that members of the three-judge panel are drawn from different regions of the State, the Chief Justice shall appoint to the three-judge panel one resident superior court judge from the First through Fourth Judicial Divisions and one resident superior court judge from the Fifth through Eighth Judicial Divisions. In order to ensure fairness, to avoid the appearance of impropriety, and to avoid political bias, no member of the panel, including the senior resident superior court judge of Wake County, may be a former member of the General Assembly. Should the senior resident superior court judge of Wake County be disqualified or otherwise unable to serve on the three-judge panel, the Chief Justice shall appoint another resident superior court judge of Wake County as the presiding judge of the three-judge panel. Should any other member of the three-judge panel be disqualified or otherwise unable to serve on the three-judge panel, the Chief Justice shall appoint as a replacement another resident superior court judge from the same group of judicial divisions as the resident superior court judge being replaced.

(c) No order or judgment shall be entered affecting the validity of any act of the General Assembly that apportions or redistricts State legislative or congressional districts except by the three-judge panel of the Superior Court of Wake County organized as provided by subsection (b) of this section. In the event of disagreement among the three resident superior court judges comprising the three-judge panel, then the opinion of the majority shall prevail."

**SECTION 7.(b)** Any action challenging the validity of any act of the General Assembly that apportions or redistricts State legislative or congressional districts and pending in a court other than the Superior Court of Wake County on the effective date of this act shall be transferred, with a notice of transfer, by the clerk of superior court of the county in which the action is pending to the clerk of Superior Court of Wake County. The clerk of superior court of the county in which the action is pending shall serve the senior resident superior court judge of Wake County with a copy of the notice of transfer. Upon receipt of the notice of transfer, the senior resident superior court judge of Wake County shall notify the Chief Justice, who shall appoint two additional resident superior court judges to serve with the senior resident superior court judge of Wake County on the three-judge panel of the superior court of Wake County as provided by subsection (a) of this section.

**SECTION 8.** Article 1 of Chapter 120 of the General Statutes is amended by adding a new section to read:

**"§ 120-2.3. Contents of judgments invalidating apportionment or redistricting acts.**

Every order or judgment declaring unconstitutional or otherwise invalid, in whole or in part and for any reason, any act of the General Assembly that apportions or redistricts State legislative or congressional districts shall find with specificity all facts supporting that declaration, shall state separately and with specificity the court's conclusions of law on that declaration, and shall, with specific reference to those findings of fact and conclusions of law, identify every defect found by the court, both as to the plan as a whole and as to individual districts."

**SECTION 9.** Article 1 of Chapter 120 of the General Statutes is amended by adding a new section to read:

**"§ 120-2.4. Opportunity for General Assembly to remedy defects.**

If the General Assembly enacts a plan apportioning or redistricting State legislative or congressional districts, in no event may a court impose its own substitute plan unless the court first gives the General Assembly a period of time to remedy any defects identified by the court in its findings of fact and conclusions of law. That period of time shall not be less than two weeks. In the event the General Assembly does not act to remedy any identified defects to its plan within that period of time, the court may impose an interim districting plan for use in the next general election only, but that interim districting plan may differ from the districting plan enacted by the General Assembly only to the extent necessary to remedy any defects identified by the court."

**SECTION 10.** Article 1 of Chapter 120 of the General Statutes is amended by adding a new section to read:

**"§ 120-2.5. Direct appeal to Supreme Court.**

Appeal lies of right directly to the Supreme Court from any final order or judgment of a court declaring unconstitutional or otherwise invalid in whole or in part and for any reason any act of the General Assembly that apportions or redistricts State legislative or congressional districts."



**SECTION 11.(a)** Article 7 of Chapter 1 of the General Statutes is amended by adding a new section to read:

**"§ 1-81.1. Venue in apportionment or redistricting cases.**

(a) Venue in any action concerning any act of the General Assembly apportioning or redistricting State legislative or congressional districts lies exclusively with the Wake County Superior Court.

(b) Any action brought concerning an act of the General Assembly apportioning or redistricting the State legislative or congressional districts shall be filed in the Superior Court of Wake County."

**SECTION 11.(b)** Any action challenging the validity of any enactment of the General Assembly that apportions or redistricts State legislative or congressional districts and pending in a court other than the Superior Court of Wake County on the effective date of this act shall be transferred, with a notice of transfer, by the clerk of superior court of the county in which the action is pending to the clerk of Superior Court of Wake County. The clerk of superior court of the county in which the action is pending shall serve the senior resident superior court judge of Wake County with a copy of the notice of transfer.

**SECTION 12.** G.S. 120-30.9B reads as rewritten:

**"§ 120-30.9B. Statewide statutes; State Board of Elections.**

(a) The Executive Director of the State Board of Elections shall ~~submit to the Attorney General of the United States~~ seek approval as required by 42 U.S.C. § 1973c for all of the following:

- (1) Within 30 days of the time they become laws all acts of the General Assembly that amend, delete, add to, modify or repeal any provision of Chapter 163 of the General Statutes or any other statewide legislation, except relating to Chapter 7A of the General ~~Statutes~~, Statutes or as provided in subsection (b) of this section, which constitutes a "change affecting voting" under Section 5 of the Voting Rights Act of 1965; and
- (2) Within 30 days all alterations of precinct boundaries under G.S. 163-132.2(c) in counties covered by Section 5 of the Voting Rights Act of 1965.

(b) With respect to acts of the General Assembly that amend, delete, add to, modify, or repeal any provision relating to apportioning or redistricting of State legislative or congressional districts, the Attorney General of North Carolina shall seek approval of the plan as required by 42 U.S.C. § 1973c."

**SECTION 13.** G.S. 163-132.3(e) reads as rewritten:

"(e) During the period beginning October 1, 2002, and ending December 31, ~~2003, 2004~~, no county board of elections may change any precinct boundary. However, a county that has a precinct line that does not follow a 2000 Census Block Boundary may change that precinct line to conform to the way that precinct is shown on the General Assembly's redistricting database, provided the total population of the area moved from one precinct to another is not greater than ten percent (10%) of the total population of either precinct. A county board of elections proposing a change to a precinct during this period shall submit that change to the Legislative Services Office, which shall examine the proposed change and give its opinion of its compliance with this subsection to the Executive Director of the State Board of Elections. If the proposed change is in compliance with this subsection, the Executive Director shall approve it."

**SECTION 14.** G.S. 163-278.41 reads as rewritten:**"§ 163-278.41. Appropriations in general election years and other years.**

(a) Following the conclusion of the last primary or nominating convention held by a political party in a general election year in which a presidential election is held, the State ~~chairman~~-chair of that political party may apply to the State Board of Elections (State Board) for the disbursement of all funds deposited with the State Treasurer on behalf of ~~such~~-that party in the North Carolina Political Parties Financing Fund (Political Parties Fund) to be administered by the State Board of Elections and in which shall be placed money contributed by taxpayers, as provided in G.S. 105-159.1. If the regular date set for a primary in G.S. 163-1 or nominating convention in G.S. 163-98 is temporarily postponed for one election year, the State party chair may apply for the disbursement after the regular date set in those sections for that party's primary or convention, even though the primary has not occurred under the temporary schedule. Upon receipt of ~~such~~-that application, the State Board shall forthwith, and every 30 days thereafter, pay over to said chairman all funds currently held by the State Treasurer on behalf of ~~said chairman's~~-that chair's political party, but provided that all such payments shall cease 30 days after the State Board of Elections has certified all of the results of the general election to the Secretary of State. ~~Additionally and upon~~-Upon receipt of ~~such~~-that application, the State Board shall pay over to the ~~said chairman~~-chair all funds currently held by the State Treasurer in the "Presidential Election Year Candidates Fund" of that party, which funds shall be allocated and disbursed during the presidential election year by the same procedure as the funds received from the Political Parties Fund are allocated. Any remaining funds of the political party in the hands of the State Treasurer shall thereafter be held by ~~him~~-the State Treasurer until eligible for distribution pursuant to this section.

(b) Following the conclusion of the last primary or nominating convention held by a political party in a general election year in which there is not a presidential election, the State ~~chairman~~-chair of the political party may apply to the State Board for the disbursement of all funds deposited on behalf of such party in the Political Parties Fund. If the regular date set for a primary in G.S. 163-1 or nominating convention in G.S. 163-98 is temporarily postponed for one election year, the State party chair may apply for the disbursement after the regular date set in those sections for that party's primary or convention, even though the primary has not occurred under the temporary schedule. Upon receipt of such application, the State Board shall forthwith, and every 30 days thereafter, pay over to said chairman all funds currently held by the State Treasurer on behalf of ~~said chairman's~~-that chair's political party provided that all such payments to the ~~said~~-chairman shall cease 30 days after the State Board of Elections has certified all of the results of the general ~~election to the Secretary of State.~~-election. Any remaining funds of the political party in the hands of the State Treasurer shall thereafter be held by ~~him~~-the State Treasurer until eligible for distribution pursuant to this section.

(c) In each year in which no general election is held, each State ~~chairman~~-chair of a political party on behalf of which funds have been deposited in the Political Parties Fund may, on or between August 1 and September 1 thereof, apply to the State Board for payment of an amount not to exceed fifty percent (50%) of the then available funds credited to the account of ~~his~~-that party. Upon receipt of such application, the State Board shall pay over to ~~said~~-that State ~~chairman~~-chair an amount not to exceed fifty percent (50%) of the then available funds credited to the account of ~~his~~-that party. Additionally and upon receipt of ~~such~~-that application, the State Board shall direct the State Treasurer to place fifty percent (50%) of ~~the said~~-those available funds in a

separate interest bearing account to be known as the "Presidential Election Year Candidates Fund of the (name of the party) Party" to be disbursed in accord with the provisions of subsection (a) above. Any remaining funds of the political party in the hands of the State Treasurer shall thereafter be held by ~~him~~ the State Treasurer until eligible for distribution by the State Board pursuant to this section. Any interest earned on the funds deposited in such Presidential Election Year Campaign Fund shall be credited thereto."

**SECTION 15.** The provisions of this act are severable. If any provision of this act is held invalid by a court of competent jurisdiction, the invalidity does not affect any other provisions of this act that can be given effect without the invalid provision.

**SECTION 16.** Sections 1, 2, 3, 4, and 5 of this act are effective when it becomes law. The remainder of this act is effective when it becomes law and applies to any case pending on or filed after that date, to any case regardless of when the case was filed, and to any action of a court affecting the validity of an act apportioning or redistricting State legislative or congressional districts.

In the General Assembly read three times and ratified this the 25<sup>th</sup> day of November, 2003.

Became law upon approval of the Governor at 4:58 p.m. on the 25<sup>th</sup> day of November, 2003.



SESSION LAWS  
OF THE  
STATE OF NORTH CAROLINA

---

SECOND EXTRA SESSION 2003

---

**H.B. 2**                      **Session Law 2003-435 Second Extra Session**

AN ACT TO MAKE THE FOLLOWING CHANGES RECOMMENDED BY THE GOVERNOR: (1) APPROPRIATE TWENTY-FOUR MILLION DOLLARS FOR INDUSTRIAL SITE INFRASTRUCTURE FOR MAJOR PROJECTS; (2) MODIFY THE JOB DEVELOPMENT INVESTMENT GRANT PROGRAM; (3) PROVIDE INCENTIVES FOR MAJOR PHARMACEUTICAL AND BIOPROCESSING FACILITIES BY EXTENDING THE BILL LEE ACT SUNSET FOR THESE INDUSTRIES AND AUTHORIZING SALES TAX REFUNDS FOR CONSTRUCTION MATERIALS FOR THESE INDUSTRIES; (4) EXTEND THE SUNSET ON AND MODIFY THE CIGARETTE EXPORTATION TAX CREDIT AND MODIFY THE BASE YEAR, (5) CREATE AN ENHANCED TAX CREDIT FOR CIGARETTE EXPORTATION, AND (6) CREATE A LIFE SCIENCES REVENUE BOND AUTHORITY.

*The General Assembly of North Carolina enacts:*

**PART 1. MAJOR INDUSTRIAL SITE INFRASTRUCTURE**

**SECTION 1.1.** Part 2 of Article 10 of Chapter 143B of the General Statutes is amended by adding a new section to read:

**"§ 143B-437.02. Site infrastructure development.**

- (a) Findings. – The General Assembly finds that:
- (1) It is the policy of the State of North Carolina to stimulate economic activity and to create new jobs for the citizens of the State by encouraging and promoting the expansion of existing business and industry within the State and by recruiting and attracting new business and industry to the State.
  - (2) Both short-term and long-term economic trends at the State, national, and international levels have made the successful implementation of the State's economic development policy and programs both more critical and more challenging; and the decline in the State's traditional industries, and the resulting adverse impact upon the State and its citizens, have been exacerbated in recent years by adverse national and State economic trends that contribute to the reduction in the State's

industrial base and that inhibit the State's ability to sustain or attract new and expanding businesses.

(3) The economic condition of the State is not static and recent changes in the State's economic condition have created economic distress that requires the enactment of a new program as provided in this section that is designed to stimulate new economic activity and to create new jobs within the State.

(4) The enactment of this section is necessary to stimulate the economy, facilitate economic recovery, and create new jobs in North Carolina and this section will promote the general welfare and confer, as its primary purpose and effect, benefits on citizens throughout the State through the creation of new jobs, an enlargement of the overall tax base, an expansion and diversification of the State's industrial base, and an increase in revenue to the State and its political subdivisions.

(5) The purpose of this section is to stimulate economic activity and to create new jobs within the State.

(b) Fund. – The Site Infrastructure Development Fund is created as a restricted reserve in the Department of Commerce. The Department may use the funds in the fund only in accordance with this section for site development. Funds in the fund do not revert but remain available to the Department for these purposes.

(c) Definitions. – The definitions in G.S. 143B-437.51 apply in this section. In addition, the following definitions apply in this section:

(1) Department. – The Department of Commerce.

(2) Site development. – Any of the following:

a. A restricted grant or a forgivable loan made to a business to enable the business to acquire land, improve land, or both.

b. A grant to one or more State agencies or nonprofit corporations to enable the grantees to acquire land, improve land, or both and to lease the property to a business.

c. A grant to one or more local government units to enable the units to acquire land, improve land, or both and to lease the property to a business.

(d) Eligibility. – To be eligible for consideration for site development for a project, a business must meet both of the following conditions:

(1) The business will invest at least one hundred million dollars (\$100,000,000) of private funds in the project.

(2) The project will employ at least 100 new employees.

(e) Health Insurance. – A business is eligible for consideration for site development under this section only if the business provides health insurance for all of the full-time employees of the project with respect to which the application is made. For the purposes of this subsection, a business provides health insurance if it pays at least fifty percent (50%) of the premiums for health care coverage that equals or exceeds the minimum provisions of the basic health care plan of coverage recommended by the Small Employer Carrier Committee pursuant to G.S. 58-50-125.

Each year that a contract for site development under this section is in effect, the business must provide the Department of Commerce a certification that the business continues to provide health insurance for all full-time employees of the project governed by the contract. If the business ceases to provide health insurance to all full-time

employees of the project, Department shall provide for reimbursement of an appropriate portion of the site development funds provided to the business.

(f) Safety and Health Programs. – In order for a business to be eligible for consideration for site development under this section, the business must have no citations under the Occupational Safety and Health Act that have become a final order within the past three years for willful serious violations or for failing to abate serious violations with respect to the location for which the grant is made. For the purposes of this subsection, 'serious violation' has the same meaning as in G.S. 95-127.

(g) Environmental Impact. – A business is eligible for consideration for site development under this part only if the business certifies that, at the time of the application, the business has no pending administrative, civil, or criminal enforcement action based on alleged significant violations of any program implemented by an agency of the Department of Environment and Natural Resources, and has had no final determination of responsibility for any significant administrative, civil, or criminal violation of any program implemented by an agency of the Department of Environment and Natural Resources within the last five years. A significant violation is a violation or alleged violation that does not satisfy any of the conditions of G.S. 143-215.6B(d). The Secretary of Environment and Natural Resources must notify the Department of Commerce annually of every person that currently has any of these pending actions and every person that has had any of these final determinations within the last five years.

(h) Selection. – The Department of Commerce shall administer the selection of projects to receive site development. The selection process shall include the following components:

- (1) Criteria. – The Department of Commerce must develop criteria to be used to identify and evaluate eligible projects for possible site development.
- (2) Initial evaluation. – The Department must evaluate major competitive projects to determine if site development is merited and to determine whether the project is eligible and appropriate for consideration for site development.
- (3) Application. – The Department must require a business to submit an application in order for a project to be considered for site development. The Department must prescribe the form of the application, the application process, and the information to be provided, including all information necessary to evaluate the project in accordance with the applicable criteria.
- (4) Committee. – The Department must submit to the Economic Investment Committee the applications for projects the Department considers eligible and appropriate for consideration for site development. In evaluating each application, the Committee must consider all of the factors set out in Section 2.1(b) of S.L. 2002-172.
- (5) Findings. – In order to recommend a project for site development, the Committee must make all of the following findings:
  - a. The conditions for eligibility have been met.
  - b. Site development for the project is necessary to carry out the public purposes provided in subsection (a) of this section.
  - c. The project is consistent with the economic development goals of the State and of the area where it will be located.

- d. The affected local governments have participated in recruitment and offered incentives in a manner appropriate to the project.
  - e. The price and nature of any real property to be acquired is appropriate to the project and not unreasonable or excessive.
  - f. Site development under this section is necessary for the completion of the project in this State.
- (6) Recommendations. – If the Committee recommends a project for site development, it must recommend the amount of State funds to be committed, the preferred form and details of the State participation, and the performance criteria and safeguards to be required in order to protect the State's investment.

(i) Agreement. – Unless the Secretary of Commerce determines that the project is no longer eligible or appropriate for site development, the Department shall enter into an agreement to provide site development within available funds for a project recommended by the Committee. Each site development agreement is binding and constitutes a continuing contractual obligation of the State and the business. The site development agreement must include all of the performance criteria, remedies, and other safeguards recommended by the Committee or required by the Department to secure the State's investment. Each site development agreement must contain a provision prohibiting a business from receiving a payment or other benefit under the agreement at any time when the business has received a notice of an overdue tax debt and the overdue tax debt has not been satisfied or otherwise resolved. Nothing in this section constitutes or authorizes a guarantee or assumption by the State of any debt of any business or authorizes the taxing power or the full faith and credit of the State to be pledged.

The Department shall cooperate with the Department of Administration and the Attorney General's Office in preparing the documentation for the site development agreement. The Attorney General shall review the terms of all proposed agreements to be entered into under this section. To be effective against the State, an agreement entered into under this section must be signed personally by the Attorney General.

(j) Safeguards. – To ensure that public funds are used only to carry out the public purposes provided in this section, the Department shall require that each business that receives State-funded site development must agree to meet performance criteria to protect the State's investment and assure that the projected benefits of the project are secured. The performance criteria to be required shall include creation and maintenance of an appropriate level of employment and investment over the term of the agreement and any other criteria the Department considers appropriate. The agreement must require the business to repay or reimburse an appropriate portion of the State funds expended for the site development, based on the extent of any failure by the business to meet the performance criteria. The agreement must provide a method for securing these payments from the business, such as structuring the site development as a conditional grant, a forgivable loan, or a revocable lease.

(k) Monitoring and Reports. – The Department is responsible for monitoring compliance with the performance criteria under each site development agreement and for administering the repayment in case of default. The Department shall pay for the cost of this monitoring from funds appropriated to it for that purpose or for other economic development purposes.



Within two months after the end of each calendar quarter, the Department shall report to the Joint Legislative Commission on Governmental Operations regarding the Site Infrastructure Development Program. This report shall include a listing of each agreement negotiated and entered into during the preceding quarter, including the name of the business, the cost/benefit analysis conducted by the Committee during the application process, a description of the project, and the amount of the site development incentive expected to be paid under the agreement during the current fiscal year. The report shall also include detailed information about any defaults and repayment during the preceding quarter. The Department shall publish this report on its web site and shall make printed copies available upon request."

**SECTION 1.2.(a)** There is appropriated from the General Fund to the Site Infrastructure Development Fund in the Department of Commerce the sum of twenty-four million dollars (\$24,000,000) for the 2003-2004 fiscal year to be used only in accordance with G.S. 143B-437.02, as enacted by this part.

**SECTION 1.2.(b)** Reserved.

**SECTION 1.2.(c)** Site development funded by money appropriated under this section is not subject to Article 8 of Chapter 143 of the General Statutes (public contracts) or Article 3 of Chapter 143 of the General Statutes (purchases and contracts), except where public funds are expended the provisions of G.S. 143-48 and G.S. 143-128.2 shall apply. Actions involving expenditures of public moneys or use of public lands for projects and programs involved in site development funded by money appropriated under this section are exempt from the requirements of Article 1 of Chapter 113A of the General Statutes. This exemption does not apply to an ordinance adopted under G.S. 113A-8.

**SECTION 1.3.** G.S. 150B-1(d) is amended by adding a new subdivision to read:

"(d) Exemptions from Rule Making. – Article 2A of this Chapter does not apply to the following:

...

(12) The Department of Commerce and the Economic Investment Committee in developing criteria and administering the Site Infrastructure Development Program under G.S. 143B-437.02."

**SECTION 1.4.** G.S. 143B-437.54(c) reads as rewritten:

"(c) Conflict of Interest. – It is unlawful for a current or former member of the Committee to, while serving on the Committee or within two years after the end of service on the Committee, provide services for compensation, as an employee, consultant, or otherwise, to any business or a related member of the business that is awarded a grant under this Part or under G.S. 143B-437.02 while the member is serving on the Committee. Violation of this subsection is a Class 1 misdemeanor. In addition to the penalties imposed under G.S. 15A-1340.23, the court shall also make a finding as to what compensation was received by the defendant for services in violation of this section and shall order the defendant to forfeit that compensation.

If a person is convicted under this section, the person shall not provide services for compensation, as an employee, consultant, or otherwise, to any business or a related member of the business that was awarded a grant under this Part or under G.S. 143B-437.02 while the member was serving on the Committee until two years after the person's conviction under this section."

**SECTION 1.5.** This part is effective when it becomes law.

**PART 2. JOB DEVELOPMENT INVESTMENT GRANT CHANGES**

**SECTION 2.1.** G.S. 143B-437.51 reads as rewritten:

**"§ 143B-437.51. Definitions.**

The following definitions apply in this Part:

...  
 (2) Base years. – The first ~~two complete calendar years~~ 24 months following the ~~effective date of an agreement~~ date set by the Committee for performance to begin under the agreement.

...  
 (5a) Enterprise tier. – The classification assigned to an area pursuant to G.S. 105-129.3."

**SECTION 2.2.** G.S. 143B-437.52 is amended by adding a new subsection to read:

"(d) Measuring Employment. – For the purposes of subdivision (a)(1) of this section and G.S. 143B-437.57(a)(11), the Committee may designate that the increase or maintenance of employment is measured at the level of a division or another operating unit of a business, rather than at the business level, if both of the following conditions are met:

- (1) The Committee makes an explicit finding that the designation is necessary to secure the project in this State.
- (2) The designation contains terms to ensure that the business does not create eligible positions by transferring or shifting to the project existing positions from another project of the business or a related entity of the business."

**SECTION 2.3.** G.S. 143B-437.53(d) is repealed.

**SECTION 2.4.** G.S. 143B-437.54(d) reads as rewritten:

"(d) Public Notice. – At least 20 days before the effective date of any criteria or nontechnical amendments to criteria, the Committee must publish the proposed criteria on the Department of Commerce's web site and provide notice to persons who have requested notice of proposed criteria. In addition, the Committee must accept oral and written comments on the proposed criteria during the 15 business days beginning on the first day that the Committee has completed these notifications. For the purpose of this subsection, a technical amendment is either of the following:

- (1) An amendment that corrects a spelling or grammatical error.
- (2) An amendment that makes a clarification based on public comment and could have been anticipated by the public notice that immediately preceded the public comment.

~~The Committee shall do all of the following at least 15 business days prior to the adoption of or amendment to any proposed criteria:~~

- ~~(1) Publish the proposed criteria on the Department of Commerce's web site.~~
- ~~(2) Provide notice to persons who have requested notice of proposed criteria.~~
- ~~(3) Accept oral and written comments on the proposed criteria."~~

**SECTION 2.5.** G.S. 143B-437.56(b) reads as rewritten:

"(b) The term of the grant shall not exceed 12 years starting with the first year a grant payment is made. The first grant payment must be made within six years after the date on which the grant was awarded."

**SECTION 2.6.** This part is effective when it becomes law.

**PART 3. EXTEND BILL LEE CREDITS FOR CERTAIN MAJOR INDUSTRIES**

**SECTION 3.1.** G.S. 105-129.2 is amended by adding a new subdivision to read:

**"§ 105-129.2. Definitions.**

The following definitions apply in this Article:

...

(8a) Eligible major industry. – A taxpayer is an eligible major industry for the purposes of this Article if the taxpayer is primarily engaged in one of the industries listed in G.S. 105-164.14(j)(3) and the Secretary of Commerce has certified that the owner of the facility will invest at least one hundred million dollars (\$100,000,000) of private funds to acquire, construct, and equip a facility in this State to engage in one or more of those industries."

**SECTION 3.2.** G.S. 105-129.2A reads as rewritten:

**"§ 105-129.2A. Sunset; studies.**

(a) **Sunset.** – This Article is repealed effective for business activities that occur on or after January 1, 2006.

(a1) **Sunset for Interstate Air Couriers.** – Notwithstanding subsection (a) of this section, in the case of an interstate air courier that enters into a real estate lease on or before January 1, 2006, with an airport authority that provides for the lease of at least 100 acres of real property with a lease term in excess of 15 years, this Article is repealed effective for business activities that occur on or after January 1, 2010.

(a2) **Sunset for Eligible Major Industries.** – Notwithstanding subsection (a) of this section, in the case of a taxpayer that qualifies as an eligible major industry on or before January 1, 2006, this Article is repealed effective for business activities that occur on or after January 1, 2010.

(b) **Equity Study.** – The Department of Commerce shall study the effect of the tax incentives provided in this Article on tax equity. This study shall include the following:

- (1) Reexamining the formula in G.S. 105-129.3(b) used to define enterprise tiers, to include consideration of alternative measures for more equitable treatment of counties in similar economic circumstances.
- (2) Considering whether the assignment of tiers and the applicable thresholds are equitable for smaller counties, for example those under 50,000 in population.
- (3) Compiling any available data on whether expanding North Carolina businesses receive fewer benefits than out-of-State businesses that locate to North Carolina.

(c) **Impact Study.** – The Department of Commerce shall study the effectiveness of the tax incentives provided in this Article. This study shall include:

- (1) Study of the distribution of tax incentives across new and expanding industries.
- (2) Examination of data on economic recruitment for the period from 1994 through the most recent year for which data are available by county, by industry type, by size of investment, and by number of jobs, and other relevant information to determine the pattern of business locations and

expansions before and after the enactment of the William S. Lee Act incentives.

- (3) Measuring the direct costs and benefits of the tax incentives.
- (4) Compiling available information on the current use of incentives by other states and whether that use is increasing or declining.

(d) Report. – The Department of Commerce shall report the results of these studies and its recommendations to the General Assembly biennially with the first report due by April 1, 2001."

**SECTION 3.3.** G.S. 105-129.4(b1) reads as rewritten:

"(b1) Large Investment. – A taxpayer who is otherwise eligible for a tax credit under this Article becomes eligible for the large investment enhancements provided for credits under this Article if the Secretary of Commerce makes a written determination that the taxpayer is expected to purchase or lease, and place in service in connection with the eligible business within a two-year period, at least one hundred fifty million dollars (\$150,000,000) worth of one or more of the following: real property, machinery and equipment, or central office or aircraft facility property. In the case of an interstate air courier that has or is constructing a hub in this ~~State~~, State and in the case of an eligible major industry, this investment may be placed in service in connection with the eligible business within a seven-year period. If the taxpayer fails to make the required level of investment within the applicable period, the taxpayer forfeits the large investment enhancements as provided in subsection (d) of this section."

**SECTION 3.4.** G.S. 105-129.4(d) reads as rewritten:

"(d) Forfeiture. – A taxpayer forfeits a credit allowed under this Article if the taxpayer was not eligible for the credit for the calendar year in which the taxpayer engaged in the activity for which the credit was claimed. In addition, a taxpayer forfeits a large investment enhancement of a tax credit if the taxpayer fails to timely make the required level of investment under subsection (b1) of this section. If an eligible major industry fails to timely make the required level of investment under G.S. 105-129.2(8a), the taxpayer forfeits all credits allowed under this Article that it would not otherwise have been eligible for if it were not an eligible major industry. A taxpayer forfeits the credit for substantial investment in other property allowed under G.S. 105-129.12A if the taxpayer fails to timely create the number of required new jobs or to timely make the required level of investment under subsection (b5) of this section. A taxpayer forfeits the technology commercialization credit allowed under G.S. 105-129.9A if the taxpayer fails to make the level of investment required by subsection (e) of that section within the required period or if the taxpayer fails to meet the terms of its licensing agreement with a research university. If a taxpayer claimed a twenty percent (20%) technology commercialization credit under G.S. 105-129.9A(d) and fails to make the level of investment required under that subsection within the required period, but does make the level of investment required under subsection (e) of that section within the required period, the taxpayer forfeits one-fourth of the twenty percent (20%) credit.

A taxpayer that forfeits a credit under this Article is liable for all past taxes avoided as a result of the credit plus interest at the rate established under G.S. 105-241.1(i), computed from the date the taxes would have been due if the credit had not been allowed. The past taxes and interest are due 30 days after the date the credit is forfeited; a taxpayer that fails to pay the past taxes and interest by the due date is subject to the penalties provided in G.S. 105-236. If a taxpayer forfeits the credit for creating jobs, the technology commercialization credit, or the credit for investing in machinery and equipment, the taxpayer also forfeits any credit for worker training claimed for the jobs

for which the credit for creating jobs was claimed or the jobs at the location with respect to which the technology commercialization credit or the credit for investing in machinery and equipment was claimed."

**SECTION 3.5.** G.S. 105-129.5(c) reads as rewritten:

"(c) Carryforward. – Any unused portion of a credit with respect to a large investment, with respect to the technology commercialization credit allowed in G.S. 105-129.9A, or with respect to substantial investment in other property under G.S. 105-129.12A may be carried forward for the succeeding 20 years. Any unused portion of a credit with respect to research and development activities under G.S. 105-129.10 may be carried forward for the succeeding 15 years. Any unused portion of a credit may be carried forward for the succeeding 10 years if, before the taxpayer claims the credit, the Secretary of Commerce makes a written determination that the taxpayer is expected to purchase or lease, and place in service in connection with the eligible business within a two-year period, at least fifty million dollars (\$50,000,000) worth of one or more of the following: real property, machinery and equipment, or central office or aircraft facility property. In the case of an interstate air courier that has or is constructing a hub in this ~~State~~State and in the case of an eligible major industry, this investment may be placed in service in connection with the eligible business within a seven-year period. If the taxpayer fails to make the required level of investment within the applicable period, the taxpayer forfeits this enhanced carryforward period. Any unused portion of any other credit may be carried forward for the succeeding five years."

**SECTION 3.6.** G.S. 105-129.8(d) reads as rewritten:

"(d) Planned Expansion. – A taxpayer that signs a letter of commitment with the Department of Commerce to create at least twenty new full-time jobs in a specific area within two years of the date the letter is signed qualifies for the credit in the amount allowed by this section based on the area's enterprise tier and development zone designation for that year even though the employees are not hired that year. In the case of an interstate air courier that has or is constructing a hub in this ~~State~~State and in the case of an eligible major industry, the applicable time period is seven years. The credit shall be available in the taxable year after at least twenty employees have been hired if the hirings are within the applicable commitment period. The conditions outlined in subsection (a) apply to a credit taken under this subsection except that if the area is redesignated to a higher-numbered enterprise tier or loses its development zone designation after the year the letter of commitment was signed, the credit is allowed based on the area's enterprise tier and development zone designation for the year the letter was signed. If the taxpayer does not hire the employees within the applicable period, the taxpayer does not qualify for the credit. However, if the taxpayer qualifies for a credit under subsection (a) in the year any new employees are hired, the taxpayer may take the credit under that subsection."

**SECTION 3.7.** G.S. 105-129.9(e) reads as rewritten:

"(e) Planned Expansion. – A taxpayer that signs a letter of commitment with the Department of Commerce to place specific eligible machinery and equipment in service in an area within two years after the date the letter is signed may, in the year the eligible machinery and equipment are placed in service in that area, calculate the credit for which the taxpayer qualifies based on the area's enterprise tier and development zone designation for the year the letter was signed. In the case of an interstate air courier that has or is constructing a hub in this ~~State~~State and in the case of an eligible major industry, the applicable time period is seven years. All other conditions apply to the credit, but if the area has been redesignated to a higher-numbered enterprise tier or has

lost its development zone designation after the year the letter of commitment was signed, the credit is allowed based on the area's enterprise tier and development zone designation for the year the letter was signed. If the taxpayer does not place part or all of the specified eligible machinery and equipment in service within the applicable period, the taxpayer does not qualify for the benefit of this subsection with respect to the machinery and equipment not placed in service within the applicable period. However, if the taxpayer qualifies for a credit in the year the eligible machinery and equipment are placed in service, the taxpayer may take the credit for that year as if no letter of commitment had been signed pursuant to this subsection."

**SECTION 3.8.** It is the intent of the General Assembly that the provisions of this part not be expanded. If a court of competent jurisdiction holds any provision of this part invalid, the section containing that provision is repealed. The repeal of a section of this part under this section does not affect other provisions of this part that may be given affect without the invalid provision.

**SECTION 3.9.** This part becomes effective for taxable years beginning on or after January 1, 2004.

#### **PART 4. MAJOR INDUSTRIAL FACILITY SALES TAX REFUNDS**

**SECTION 4.1.** G.S. 105-164.14 is amended by adding a new subsection to read:

"(j) Certain Industrial Facilities. – The owner of an eligible facility is allowed an annual refund of sales and use taxes as provided in this subsection.

- (1) Refund. – The owner of an eligible facility is allowed an annual refund of sales and use taxes paid by it under this Article on building materials, building supplies, fixtures, and equipment that become a part of the real property of the eligible facility. Liability incurred indirectly by the owner for sales and use taxes on these items is considered tax paid by the owner. A request for a refund must be in writing and must include any information and documentation required by the Secretary. A request for a refund is due within six months after the end of the State's fiscal year. Refunds applied for after the due date are barred.
- (2) Eligibility. – A facility is eligible under this subsection if it meets both of the following conditions:
  - a. It is primarily engaged in one of the industries listed in this subsection.
  - b. The Secretary of Commerce has certified that the owner of the facility will invest at least one hundred million dollars (\$100,000,000) of private funds to acquire, construct, and equip the facility in this State.
- (3) Industries. – This subsection applies to the following industries:
  - a. Bioprocessing. Bioprocessing means biomanufacturing or processing that includes the culture of cells to make commercial products, the purification of biomolecules from cells, or the use of these molecules in manufacturing.
  - b. Pharmaceutical and medicine manufacturing and distribution of pharmaceuticals and medicines. Pharmaceutical and medicine manufacturing means any of the following:

1. Manufacturing biological and medicinal products. For the purpose of this sub-subdivision, a biological product is a preparation that is synthesized from living organisms or their products and used medically as a diagnostic, preventive, or therapeutic agent. For the purpose of this sub-subdivision, bacteria, viruses, and their parts are considered living organisms.
  2. Processing botanical drugs and herbs by grading, grinding, and milling.
  3. Isolating active medicinal principals from botanical drugs and herbs.
  4. Manufacturing pharmaceutical products intended for internal and external consumption in forms such as ampoules, tablets, capsules, vials, ointments, powders, solutions, and suspensions.
- (4) Forfeiture. – If the owner of an eligible facility does not make the required minimum investment within five years after the first refund under this subsection with respect to the facility, the facility loses its eligibility and the owner forfeits all refunds already received under this subsection. Upon forfeiture, the owner is liable for tax under this Article equal to the amount of all past taxes refunded under this subsection, plus interest at the rate established in G.S. 105-241.1(i), computed from the date each refund was issued. The tax and interest are due 30 days after the date of the forfeiture. A person that fails to pay the tax and interest is subject to the penalties provided in G.S. 105-236."

**SECTION 4.2.** It is the intent of the General Assembly that the provisions of this part not be expanded. If a court of competent jurisdiction holds any provision of this part invalid, the section containing that provision is repealed. The repeal of a section of this part under this section does not affect other provisions of this part that may be given affect without the invalid provision.

**SECTION 4.3.** This part becomes effective January 1, 2004, and applies to sales made on or after that date.

## **PART 5. CIGARETTE EXPORTATION TAX CREDIT**

**SECTION 5.1.** Section 10 of S.L. 1999-333 reads as rewritten:

"**Section 10.** Sections 2, 3, and 4 of this act are effective for taxable years beginning on or after January 1, 1999. Sections 5 through 8 of this act become effective December 1, 1999, and apply to offenses committed on or after that date. The remainder of this act is effective when it becomes law. Section 4 of this act is repealed effective for cigarettes exported on or after January 1, ~~2005~~2018."

**SECTION 5.2.** G.S. 105-130.45 reads as rewritten:

"§ **105-130.45. Credit for manufacturing cigarettes for exportation.**

- (a) Definitions. – The following definitions apply in this section:
  - (1) Base year exportation volume. – The number of cigarettes manufactured and exported by a corporation during the calendar year ~~1998~~2003.
  - (2) Exportation. – The shipment of cigarettes manufactured in the United States to a foreign country sufficient to relieve the cigarettes in the shipment of the federal excise tax on cigarettes.

(3) Successor in business. – A corporation that through amalgamation, merger, acquisition, consolidation, or other legal succession becomes invested with the rights and assumes the burdens of the predecessor corporation and continues the cigarette exportation business.

(b) Credit. – A corporation engaged in the business of manufacturing cigarettes for exportation to a foreign country and that waterborne exports cigarettes and other tobacco products through the North Carolina State Ports during the taxable year is allowed a credit against the taxes levied by this Part. The amount of credit allowed under this section is determined by comparing the exportation volume of the corporation in the year for which the credit is claimed with the corporation's base year exportation volume, rounded to the nearest whole percentage. In the case of a successor in business, the amount of credit allowed under this section is determined by comparing the exportation volume of the corporation in the year for which the credit is claimed with all of the corporation's predecessor corporations' combined base year exportation volume, rounded to the nearest whole percentage. The amount of credit allowed may not exceed six million dollars (\$6,000,000) and is computed as follows:

<b>Current Year's Exportation Volume Compared to its Base Year's Exportation Volume</b>	<b>Amount of Credit per Thousand Cigarettes Exported</b>
120% or more	40¢
119% – 100%	35¢
99% – 80%	30¢
79% – 60%	25¢
59% – 50%	20¢
Less than 50%	None

(c) Cap. – The credit allowed under this section may not exceed the lesser of six million dollars (\$6,000,000) or fifty percent (50%) of the amount of tax imposed by this Part for the taxable year reduced by the sum of all other credits allowable, except tax payments made by or on behalf of the taxpayer. This limitation applies to the cumulative amount of the credit allowed in any tax year, including carryforwards claimed by the taxpayer under this section for previous tax years. Any unused portion of a credit allowed in this section may be carried forward for the next succeeding ~~five~~ten years.

(d) Documentation of Credit. – A corporation that claims the credit under this section must include the following with its tax return:

- (1) A statement of the base year exportation volume.
- (2) A statement of the exportation volume on which the credit is based.
- (3) A list of the corporation's export volumes shown on its monthly reports to the Alcohol and Tobacco Tax and Trade Bureau ~~Bureau of Alcohol, Tobacco, and Firearms~~ of the United States Treasury for the months in the tax year for which the credit is claimed.

(e) No Double Credit. – A taxpayer may not claim this credit and the credit allowed under G.S. 105-130.46 for the same activity."

**SECTION 5.3.** G.S. 105-130.45(a)(2) reads as rewritten:

"(2) Exportation. – The shipment of cigarettes manufactured in the United States to ~~a foreign country~~ any of the following sufficient to relieve the cigarettes in the shipment of the federal excise tax on ~~eigarettes~~cigarettes:



- a. A foreign country.
- b. A possession of the United States.
- c. A commonwealth of the United States that is not a state."

**SECTION 5.4.** Section 5.2 of this part is effective for cigarettes exported on or after January 1, 2005. Section 5.3 of this part is effective for taxable years beginning on or after January 1, 2004. The remainder of this part is effective when it becomes law. If any clause or other portion of this act is held invalid, that decision shall not affect the validity of the remaining portions of this act, which are severable.

**PART 6. ENHANCED CIGARETTE EXPORTATION TAX CREDIT**

**SECTION 6.1.** Part 1 of Article 4 of Chapter 105 of the General Statutes is amended by adding a new section to read:

**"§ 105-130.46. Credit for manufacturing cigarettes for exportation while increasing employment and utilizing State Ports.**

(a) Purpose. – The credit authorized by this section is intended to enhance the economy of this State by encouraging qualifying cigarette manufacturers to increase employment in this State with the purpose of expanding this State's economy, the use of the North Carolina State Ports, and the use of other State goods and services, including tobacco.

(b) Definitions. – The following definitions apply in this section:

- (1) Employment level. – The total number of full-time jobs and part-time jobs converted into full-time equivalences.
- (2) Exportation. – The shipment of cigarettes manufactured in the United States to a foreign country sufficient to relieve the cigarettes in the shipment of the federal excise tax on cigarettes.
- (3) Full-time job. – A position that requires at least 1,600 hours of work per year and is intended to be held by one employee during the entire year.
- (4) Successor in business. – A corporation that through amalgamation, merger, acquisition, consolidation, or other legal succession becomes invested with the rights and assumes the burdens of the predecessor corporation and continues the cigarette exportation business.

(c) Employment Level. – In order to be eligible for a full credit allowed under this section, the corporation must maintain an employment level in this State that exceeds the corporation's employment level in this State at the end of the 2004 calendar year by at least 800 full-time jobs. In the case of a successor in business, the corporation must maintain an employment level in this State that exceeds all its predecessor corporations' combined employment levels in this State at the end of the 2004 calendar year by at least 800 full-time jobs. A job is located in this State if more than fifty percent (50%) of the employee's duties are performed in this State.

(d) Credit. – A corporation that satisfies the employment level requirement under subsection (b) of this section, is engaged in the business of manufacturing cigarettes for exportation, and exports cigarettes and other tobacco products through the North Carolina State Ports during the taxable year is allowed a credit as provided in this section. The amount of credit allowed under this section is equal to forty cents (40¢) per one thousand cigarettes exported. The amount of credit earned during the taxable year may not exceed ten million dollars (\$10,000,000).

(e) Reduction of Credit. – A corporation that has previously satisfied the qualification requirements of this section but that fails to satisfy the employment level requirement in a succeeding year may still claim a partial credit for the year in which

the employment level requirement is not satisfied. The partial credit allowed is equal to the credit that would otherwise be allowed under subsection (c) of this section multiplied by a fraction. The numerator of the fraction is the number of full-time jobs by which the corporation's employment level in this State exceeds the corporation's employment level in this State at the end of the 2004 calendar year. The denominator of the fraction is 800. In the case of a successor in business, the numerator of the fraction is the number of full-time jobs by which the corporation's employment level in this State exceeds all its predecessor corporations' combined employment levels in this State at the end of the 2004 calendar year.

(f) Allocation. – The credit allowed by this section may be taken against the income taxes levied under this Part or the franchise taxes levied under Article 3 of this Chapter. When the taxpayer claims a credit under this section, the taxpayer must elect the percentage of the credit to be applied against the taxes levied under this Part with any remaining percentage to be applied against the taxes levied under Article 3 of this Chapter. This election is binding for the year in which it is made and for any carryforwards. A taxpayer may elect a different allocation for each year in which the taxpayer qualifies for a credit.

(g) Ceiling. – The total amount of credit that may be taken in a taxable year under this section may not exceed the lesser of the amount of credit which may be earned for that year under subsection (c) of this section or fifty percent (50%) of the amount of tax against which the credit is taken for the taxable year reduced by the sum of all other credits allowable, except tax payments made by or on behalf of the taxpayer. This limitation applies to the cumulative amount of the credit allowed in any tax year, including carryforwards claimed by the taxpayer under this section or G.S. 105-130.45 for previous tax years.

(h) Carryforward. – Any unused portion of a credit allowed in this section may be carried forward for the next succeeding 10 years. All carryforwards of a credit must be taken against the tax against which the credit was originally claimed. A successor in business may take the carryforwards of a predecessor corporation as if they were carryforwards of a credit allowed to the successor in business.

(i) Documentation of Credit. – A corporation that claims the credit under this section must include the following with its tax return:

- (1) A statement of the exportation volume on which the credit is based.
- (2) A list of the corporation's export volumes shown on its monthly reports to the Alcohol and Tobacco Tax and Trade Bureau of the United States Treasury for the months in the tax year for which the credit is claimed.
- (3) Any other information required by the Department of Revenue.

(j) No Double Credit. – A taxpayer may not claim this credit and the credit allowed under G.S. 105-130.45 for the same activity.

(k) Reports. – Any corporation that takes a credit under this section must submit an annual report by May 1 of each year to the Senate Finance Committee, the House of Representatives Finance Committee, the Senate Appropriations Committee, the House of Representatives Appropriations Committee, and the Fiscal Research Division of the General Assembly. The report must state the amount of credit earned by the corporation during the previous year, the amount of credit including carryforwards claimed by the corporation during the previous year, and the percentage of domestic leaf content in cigarettes produced by the corporation during the previous year. The first reports required under this section are due by May 1, 2006."

**SECTION 6.2.** This part is effective for taxable years beginning on or after January 1, 2006, and expires for exports occurring on or after January 1, 2018.

**PART 7. LIFE SCIENCES REVENUE BOND AUTHORITY**

**SECTION 7.1.** Chapter 159D of the General Statutes is amended by adding a new Article to read:

"Article 3.

"Life Sciences Revenue Bond Authority.

**"§ 159D-65. Legislative findings.**

The General Assembly finds the following:

- (1) The life sciences, including biology, zoology, agronomy, biochemistry, genetics, and molecular biology, have developed and are continuing to develop new commercially viable products designed to diagnose and treat diseases, produce therapeutic proteins and industrial enzymes, synthesize nutritional supplements and specialty chemicals in microorganisms, plants, and animals, and accomplish other beneficial purposes.
- (2) The commercialization of life science products has provided, and will continue to provide, significant economic benefits for the citizens of North Carolina through increased business development and employment.
- (3) North Carolina has a strong life sciences infrastructure in place, fostered over many years by the General Assembly, public and private universities, the North Carolina Biotechnology Center, life sciences companies and investors, and various State, regional, and local economic development initiatives.
- (4) Nationally and within North Carolina, the life sciences industry has an immediate need for additional manufacturing capacity for the extraction, separation, purification, and packaging of products at various stages of the development, testing, and commercialization process, and the demand for this manufacturing capacity is likely to increase significantly in the next three to five years.
- (5) Employment opportunities created by life sciences manufacturing facilities are ideally suited for rural and urban regions of North Carolina currently undergoing significant economic challenges, and ancillary employment opportunities in construction, logistical support, transportation, raw material supply, and other fields will be enhanced through the construction and operation of life sciences manufacturing facilities in the State.
- (6) A Life Sciences Revenue Bond Authority to help finance bioprocessing development facilities and bioprocessing manufacturing facilities addresses a critical need for companies that are formulating products, conducting field and clinical trials, and engaging in the production of new products.
- (7) It is in the interest of the people of North Carolina that the State take steps to encourage the development of these facilities in the State and that the State seek to achieve a position of national leadership and innovation in the field of bioprocess manufacturing by facilitating the construction of economically sound and sustainable facilities in the State.

**"§ 159D-66. Definitions.**

The following definitions apply in this Article:

- (1) Authority. – The Life Sciences Revenue Bond Authority.
- (2) Board. – The Board of Directors of the Authority.

**"§ 159D-67. Creation and purposes of Life Sciences Revenue Bond Authority.**

(a) Creation. – The Life Sciences Revenue Bond Authority is created within the Department of State Treasurer for organizational and budgetary purposes only. The Authority shall be governed by a Board of Directors. The Board of Directors is authorized to administer the Authority independently in accordance with the requirements of this Article.

(b) Purposes. – The Authority has the following purposes:

- (1) To examine alternatives for enhancing North Carolina's construction financing infrastructure for life sciences manufacturing facilities by credit enhancement vehicles such as revenue bonds.
- (2) To establish proposed guidelines for the deployment, oversight, promotion, monitoring, and management of these credit enhancement vehicles.
- (3) To identify prospective life sciences enterprises that might benefit from the establishment of credit enhancement vehicles.
- (4) To advise and make recommendations to the General Assembly regarding further legislation to achieve the goals of the Authority.
- (5) To serve as the central life sciences revenue bond policy planning body in the State through collaboration and coordination with State, regional, local agencies, The University of North Carolina System, the North Carolina Biotechnology Center, the State Treasurer, and private entities in order to develop and foster a life sciences credit enhancement infrastructure for the benefit of the citizens of North Carolina.

**"§ 159D-68. Board of Directors.**

(a) Members. – The Board of Directors consists of seven voting members, as follows:

- (1) Two members appointed by the Governor.
- (2) Two members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121.
- (3) Two members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121.
- (4) The State Treasurer of North Carolina or the Treasurer's designee.

(b) Terms. – The initial terms of office begin on the date of appointment and expire on June 30, 2005. Board members appointed for subsequent terms shall serve terms of three years. Board members may serve up to two full consecutive three-year terms. All members of the Board shall remain in office until their successors are appointed and qualify.

(c) Vacancies. – A vacancy in an appointment made by the Governor shall be filled by the Governor for the remainder of the term. A vacancy in an appointment made by the General Assembly shall be filled in accordance with G.S. 120-122 for the remainder of the term. A person appointed to fill a vacancy must qualify in the same manner as a person appointed for a full term.

(d) Chair. – The members of the Board shall elect a Chair from among their members. The Chair shall serve in that position at the pleasure of the Board.

**"§ 159D-69. Powers and duties of Authority.**

(a) Powers. – The Authority has all of the powers necessary or convenient to carry out this Article, including the following powers:

- (1) To adopt bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules and policies in connection with the performance of its functions and duties.
- (2) To adopt and modify an official seal.
- (3) To maintain an office at any place within the State as it may determine.
- (4) To apply for, accept, and utilize grants, contributions, and appropriations in order to carry out its duties as provided in this Article.
- (5) To employ, contract with, direct, and supervise all personnel and consultants and to enter into other contracts as necessary to accomplish the purposes of this Article, within the resources available to the Authority for that purpose.
- (6) To review and recommend changes in laws, rules, programs, and policies of the State and its agencies and subdivisions to further the enhancement of the life sciences construction financing infrastructure within the State.

(b) Duties. – The Authority has the following duties:

- (1) To establish an organizational structure and operational procedures to administer the Authority's programs.
- (2) To examine various alternatives for encouraging the expansion of North Carolina's life sciences manufacturing industry by the use of credit enhancement vehicles such as revenue bonds and otherwise.
- (3) To establish proposed guidelines for the deployment, oversight, promotion, monitoring, and management of these credit enhancement vehicles.
- (4) To collaborate and coordinate with State, regional, and local agencies, The University of North Carolina System, the North Carolina Biotechnology Center, the State Treasurer, and private entities in order to develop and foster a life sciences credit enhancement infrastructure for the benefit of the citizens of North Carolina.
- (5) To develop the detailed procedures that could be employed to identify and qualify applicants for credit enhancement programs, including procedures to evaluate the scientific, business, and financial qualifications of these applicants.
- (6) To receive and process test or pro forma applications from potential applicants for credit enhancement programs to demonstrate the need for the programs and to assess and collect fees from the potential applicants to cover the costs of processing and reviewing the applications."

**SECTION 7.2.** The Life Sciences Revenue Bond Authority created in this part shall provide a written report to the General Assembly by May 1, 2004, setting forth its findings regarding the steps required to encourage and foster the expansion of

the North Carolina life sciences manufacturing industry, including proposed legislation if considered appropriate by the Authority.

**SECTION 7.3.** Nothing in this part requires the General Assembly to appropriate funds to implement it.

**SECTION 7.4.** This part is effective when it becomes law.

In the General Assembly read three times and ratified this the 10<sup>th</sup> day of December, 2003.

Became law upon approval of the Governor at 11:39 a.m. on the 16<sup>th</sup> day of December, 2003.

**VETOES  
OF  
GOVERNOR MICHAEL F. EASLEY**

G.S. 120-34(a) provides that "In any case where the Governor has returned a bill to the General Assembly with objections, those objections shall be printed verbatim in the Session Laws, regardless of whether or not the bill became law notwithstanding the objections."

<b>Bill Number</b>	<b>Title of Bill</b>
SENATE BILL 931	AN ACT ELIMINATING THE PORTFOLIO REQUIREMENT FOR TEACHER CERTIFICATION.
HOUSE BILL 917	AN ACT TO CONFORM THE LAWS RELATED TO PERMISSIBLE INTEREST RATES FOR HOME LOANS SECURED BY FIRST MORTGAGES, AND TO AUTHORIZE THE LEGISLATIVE RESEARCH COMMISSION TO STUDY ISSUES RELATED TO BANKING AND LENDING LAWS.





# Veto Message for Senate Bill 931



STATE OF NORTH CAROLINA  
OFFICE OF THE GOVERNOR  
20301 MAIL SERVICE CENTER • RALEIGH, NC 27699-0301

MICHAEL F. EASLEY  
GOVERNOR

## Governor's Objection and Veto Message

Section four of Senate Bill 931 as ratified states that "no new requirement added by the State Board of Education to the teacher certification process may be required for licensure now or in the future without explicit legislative authorization."

The North Carolina Constitution and our state Supreme Court decision in *Leandro* support the State Board's role to determine the standards and requirements for public school teachers in North Carolina reflecting our priorities for improving student achievement. Both charge the executive branch of government with a duty to provide every child with an opportunity for a sound basic education. This duty cannot be fulfilled without the executive branch having the capacity to adjust rules, regulations, and policies in a timely manner that reflect changing societal and educational needs. While the Constitution reserves certain powers to the General Assembly, it specifically grants the general authority for the State Board of Education to "administer the free public school system."

Section four of this bill impairs the executive branch's ability to execute its constitutional duty. This section is also in direct conflict with and erodes the Excellent Schools Act of 1997 requiring the State Board to set rigorous standards for teachers and student achievement.

Removing the authority of the State Board of Education to ensure teacher standards is not only bad public policy, but it is also constitutionally questionable.

For the reasons stated above, I veto the bill

A handwritten signature in cursive script, appearing to read "M. Easley".

Michael F. Easley

06-08-03P07:37 RCYD

A handwritten signature in cursive script, appearing to read "Janet Pruitt".



LOCATION: 116 WEST JONES STREET • RALEIGH, NC • TELEPHONE: (919) 733-5811

# Veto Message for House Bill 917



STATE OF NORTH CAROLINA  
OFFICE OF THE GOVERNOR  
20301 MAIL SERVICE CENTER • RALEIGH, NC 27699-0301

MICHAEL F. EASLEY  
GOVERNOR

August 19, 2003

## GOVERNOR'S OBJECTIONS AND VETO MESSAGE

House Bill 917 would raise the fees that consumer finance companies may charge mortgage borrowers by two percentage points (from one percent to three percent). It would allow new deferral fees and new modification fees of \$150 each per year. All of these fee increases are in addition to the statutorily allowed interest of up to 15 percent.

Consumer finance companies primarily make high rate, personal unsecured consumer loans to borrowers who may not qualify for bank loans. However, if consumer finance companies move these borrowers into first mortgage loans, they can charge up to 15 percent interest and an origination fee, while taking the borrower's home as security. To allow additional charges under these circumstances is unnecessary and harmful.

North Carolina is known for having one of the toughest predatory lending laws in the country. During a national recession, many families are struggling to make ends meet. However, the five large national and international conglomerates that make the vast majority of consumer finance loans are thriving. This legislation has no economic benefit to North Carolina or our working families. It would simply increase the cost of loans for North Carolina citizens at a time that they can afford it least.

Therefore, I veto the bill.

A handwritten signature in black ink, appearing to read "M. Easley".

Michael F. Easley

Read  
AUG 27 2003

*Denise Weeks*

*Speaker refers bill to Committee on Rules, Calendar and  
Operations of the House* AUG 27 2003

*Denise Weeks*

LOCATION: 116 WEST JONES STREET • RALEIGH, NC • TELEPHONE: (919) 733-5811

**RESOLUTIONS**  
**OF THE**  
**STATE OF NORTH CAROLINA**

---

**REGULAR SESSION 2003**

---

**S.J.R. 21** **Resolution 2003-1**

A JOINT RESOLUTION HONORING THE FOUNDERS OF THE TOWN OF BLADENBORO ON THE TOWN'S 100<sup>TH</sup> ANNIVERSARY.

Whereas, the area that would later become the Town of Bladenboro began with a land grant of 200 acres to Rohan Redin in 1779; and

Whereas, in 1857, Robert Tate arrived in the area from Scotland and established a turpentine distillery; and

Whereas, in 1885, brothers R.L. and H.C. Bridger moved to the Town from South Carolina and later established a number of businesses which produced or manufactured turpentine, cotton, and farming supplies; and

Whereas, the Bridger family continued to contribute to the Town by founding the Bank of Bladenboro and Bladenboro Cotton Mills; and

Whereas, the success of the Town was due in part to the railroad which aided in distributing the products produced in the Town and attracting new industry and citizens; and

Whereas, in the early 1890s, the Town was the site of an academy, the largest educational facility of its kind in the State at that time; and

Whereas, the Town was incorporated on February 12, 1903, by an act of the General Assembly; and

Whereas, the Town's first officers were D.B. Edwards, Mayor, and H.C. Bridger, Council Thompson, and Alexander Shaw, Commissioners; and

Whereas, the Town has continued to grow, improve, and prosper as a result of continued dedication, insight, and planning of its leaders and over 1,700 citizens; Now, therefore,

*Be it resolved by the Senate, the House of Representatives concurring:*

**SECTION 1.** The General Assembly honors the founders of the Town of Bladenboro.

**SECTION 2.** The General Assembly congratulates the Town of Bladenboro on its 100<sup>th</sup> anniversary and encourages the people of this State to participate in activities commemorating this special occasion.

**SECTION 3.** The Secretary of State shall transmit a certified copy of this resolution to the Mayor of the Town of Bladenboro.

**SECTION 4.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 13<sup>th</sup> day of February, 2003.

**S.J.R. 138**

**Resolution 2003-2**

A JOINT RESOLUTION INFORMING HIS EXCELLENCY, GOVERNOR MICHAEL F. EASLEY, THAT THE GENERAL ASSEMBLY IS ORGANIZED AND READY TO PROCEED WITH PUBLIC BUSINESS AND INVITING THE GOVERNOR TO ADDRESS A JOINT SESSION OF THE SENATE AND HOUSE OF REPRESENTATIVES.

*Be it resolved by the Senate, the House of Representatives concurring:*

**SECTION 1.** A committee of six Senators appointed by the President Pro Tempore of the Senate and six Representatives appointed by the Speaker of the House of Representatives shall notify His Excellency, Governor Michael F. Easley, that the General Assembly is organized and is ready to proceed with public business and to invite him to address a joint session of the Senate and House of Representatives in the Hall of the House of Representatives at 7:00 P.M. on Monday, March 3, 2003.

**SECTION 2.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 26<sup>th</sup> day of February, 2003.

**H.J.R. 59**

**Resolution 2003-3**

A JOINT RESOLUTION HONORING BOOKER T. WASHINGTON, FOUNDER OF THE TUSKEGEE INSTITUTE; HONORING THE INSTITUTE'S MOST RENOWNED FACULTY MEMBER, GEORGE WASHINGTON CARVER; AND EXPRESSING APPRECIATION TO THE TOM JOYNER FOUNDATION FOR FUND-RAISING EFFORTS TO BENEFIT HISTORICALLY BLACK COLLEGES AND UNIVERSITIES.

Whereas, Booker T. Washington founded the Tuskegee Institute (now Tuskegee University) in Tuskegee, Alabama, in 1881; and

Whereas, Booker T. Washington served as its president until his death in 1915, building the school into a major center for educating African Americans; and

Whereas, Booker T. Washington brought the Tuskegee Institute to national prominence, and today the original 100 acres and student-built structures comprise the Tuskegee Institute National Historic District, operated as a unit of the national park system; and

Whereas, Booker T. Washington, a highly skilled organizer and fund-raiser, was counsel to American presidents, a strong advocate of African-American business, and instrumental in the development of educational institutions throughout the South; and

Whereas, in 1897 Booker T. Washington hired George Washington Carver as Director of Agriculture at Tuskegee Institute, where Carver served on the faculty until his death in 1943; and

## Resolutions - 2003

Whereas, at Tuskegee Institute, George Washington Carver developed his crop-rotation method, which revolutionized southern agriculture; and

Whereas, George Washington Carver invented three hundred uses for peanuts, hundreds more uses for soybeans, pecans, and sweet potatoes, and many other inventions; and

Whereas, rather than patent and profit from his designs, George Washington Carver gave them freely for the benefit of society and donated his life savings to the establishment of the Carver Research Foundation at Tuskegee Institute for continuing research in agriculture; and

Whereas, because of its well-regarded aeronautical engineering program, Tuskegee Institute was selected by the United States military to train African-American war pilots during World War II, over 1,000 of whom became known as the Tuskegee Airmen, one of the most highly respected American fighter groups of the war; and

Whereas, Tuskegee alumni who have made their mark upon the nation and the world include Ralph Ellison, author of the literary classic "The Invisible Man"; General Daniel "Chappie" James, the nation's first African-American four-star general; producer/director Keenan Ivory Wayans; Roosevelt Williams, a cornerback for the Chicago Bears NFL team; Grammy Award winner Lionel Richie; and Robert Benham, the first Black justice on the Georgia Supreme Court; and

Whereas, another distinguished alumnus of Tuskegee Institute is nationally syndicated radio disc jockey Tom Joyner, who is a native of Tuskegee, Alabama, and the son of a Tuskegee Airman; and

Whereas, in 1997 Tom Joyner established the Tom Joyner Foundation, which, through the Tom Joyner Black College Scholarship Fund in partnership with the United Negro College Fund, initiated a program to lend financial assistance to deserving students attending historically Black colleges and universities around the country; and

Whereas, to date, the Tom Joyner Foundation has raised and contributed over 15 million dollars and has helped more than 5,000 students attending historically Black colleges and universities; and

Whereas, each month the Tom Joyner Foundation selects a historically Black college or university as the focus of its fund-raising efforts with the goal of eventually selecting every historically Black college and university in the country; and

Whereas, Saint Augustine's College has been selected as the Foundation's college of the month for February 2003; Now, therefore,

*Be it resolved by the House of Representatives, the Senate concurring:*

**SECTION 1.** The General Assembly honors the memory of Booker T. Washington, the founder of Tuskegee Institute, and George Washington Carver, renowned faculty member of Tuskegee Institute.

**SECTION 2.** The General Assembly expresses its appreciation to the Tom Joyner Foundation for fund-raising efforts to benefit historically Black colleges and universities.

**SECTION 3.** The Secretary of State shall transmit a certified copy of this resolution to Dr. Dianne Boardley Suber, the President of Saint Augustine's College, and to Tom Joyner.

**SECTION 4.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 27<sup>th</sup> day of February, 2003.

**S.J.R. 264**

**Resolution 2003-4**

**A JOINT RESOLUTION HONORING THE FOUNDERS OF THE TOWN OF WENDELL ON THE TOWN'S 100TH ANNIVERSARY.**

Whereas, the Town of Wendell was founded on several parcels of land with the main part of the town being located on the farm of Ruffin "Toad" Richardson; and

Whereas, this area was originally known as the Rhodes School House Community and was inhabited by approximately 20 families; and

Whereas, in 1891, the post office was chartered and the schoolmaster, M.A. Griffin, requested that the post office be named in honor of Oliver Wendell Holmes, noted poet, physician, and teacher, who lived from 1809 until 1894, thus changing the name of the area to Wendell; and

Whereas, Wendell was incorporated by the General Assembly on March 6, 1903; and

Whereas, the first Board of Commissioners was comprised of Mayor Burrell Baker and Commissioners C.Z. Todd, R.B. Todd, J.W. Liles, E.V. Richardson, and T.J. Wheeler; and

Whereas, in 1906, the railroad between Raleigh and Wilson, known as the Norfolk-Southern Railroad, was completed; and

Whereas, the train conductors used both syllables, "Wen" and "Dell", when calling out the name of the Town, which explains the unusual pronunciation of "Wendell"; and

Whereas, Wendell was laid out to be ½ square mile in the shape of an octagon, with the streets that ran from north to south named for trees and the streets that ran east to west numbered; and

Whereas, Wendell originally had two main avenues, Marshburn Road and Wilson Avenue, which is now known as Wendell Boulevard; and

Whereas, Wendell started its own power company in 1913 and established its own water and sewer department in 1919; and

Whereas, in 1924, Main Street, from Second Street to Wilson Avenue, and Third Street, from Cypress Street to Pine Street, became the first paved streets in Wendell; and

Whereas, Wendell began to grow due to sawmill and farming businesses, with cotton as the major money crop and later tobacco; and

Whereas, Wendell was the location of the first tobacco market in Wake County outside of Raleigh, the first Parent Teacher Association (PTA) in Wake County, and the first town-supported library in Wake County; and

Whereas, today Wendell has a thriving textile industry; and

Whereas, the official town tree is the crab apple; and

Whereas, Wendell is continuing to grow, improve, and prosper through the continued dedication, insight, and planning of concerned leaders and citizens; Now, therefore,

*Be it resolved by the Senate, the House of Representatives concurring:*

**SECTION 1.** The General Assembly honors the founders of the Town of Wendell and extends its sincere congratulations and best wishes to the Town of Wendell upon the Town's 100th anniversary.

**SECTION 2.** The Secretary of State shall transmit a certified copy of this resolution to the Mayor of the Town of Wendell.

**SECTION 3.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 12<sup>th</sup> day of March, 2003.

**S.J.R. 171**

**Resolution 2003-5**

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF HARLAN E. BOYLES, FORMER STATE TREASURER.

Whereas, Harlan E. Boyles was born on May 6, 1929, in the rural community of Vale, in Lincoln County, the son of Curtis E. Boyles and Kate S. Boyles; and

Whereas, Harlan Boyles attended Lincoln County Public Schools 1935-45; and

Whereas, stricken with polio at the age of 15, Harlan Boyles spent a year recovering in facilities at Hickory and Charlotte; and

Whereas, Harlan Boyles graduated from Crossnore School in Avery County in 1947, where Dr. Mary Sloop and other teachers saw a potential for greatness and encouraged him to continue his education; and

Whereas, Harlan Boyles graduated from the University of North Carolina at Chapel Hill in 1951 with a degree in accounting; and

Whereas, Harlan Boyles was employed by the State of North Carolina in 1951 as an auditor with the Department of Revenue; and

Whereas, Harlan Boyles became a certified public accountant in 1955; and

Whereas, Harlan Boyles, with his abundant energy, his impeccable integrity, and his devotion to North Carolina quickly captured the admiration of the late Edwin M. Gill, then the Commissioner of Revenue; and

Whereas, Harlan Boyles was named Deputy State Treasurer when Edwin M. Gill was appointed State Treasurer; and

Whereas, Harlan Boyles' first assignment was to lead the effort to attain a Triple-A credit rating for North Carolina, which he did promptly; and

Whereas, Harlan Boyles served as Deputy State Treasurer 16 years, his principal assignment as Secretary of the Local Government Commission in which role he assisted local government units in managing their public finance with particular emphasis upon the prudent use of debt; and

Whereas, Harlan Boyles was elected State Treasurer in 1976 and, until his retirement in 2000, was reelected to a total of six four-year terms culminating in a career of 40 years in the Department of State Treasurer; and

Whereas, Harlan Boyles during his more than 49 years in public service witnessed an era of unprecedented growth and prosperity for the State of North Carolina; and

Whereas, Harlan Boyles served nine governors and countless legislators; and

Whereas, Harlan Boyles counted among his major achievements the maintenance of North Carolina's Triple-A credit rating which saved taxpayers millions of dollars in borrowing costs for building schools, highways, and other infrastructure; and

Whereas, during his tenure as State Treasurer, trust funds under his prudent management grew from under \$3 billion to more than \$70 billion; and

## Resolutions - 2003

Whereas, as State Treasurer, he served on more boards and commissions than any other official except the Governor, and in each of those capacities, Harlan Boyles served with distinction, offering generously of his experience and wisdom to help serve the people of North Carolina; and

Whereas, as an ex officio member of the State Board of Education for 24 years, Harlan Boyles became a consistent and outspoken advocate for improving our public schools; and

Whereas, as an ex officio member of the Board of Community Colleges, Harlan Boyles became a consistent and outspoken advocate of the various technical and worker training programs offered by our outstanding system of community colleges; and

Whereas, as Chairman of the State Banking Commission, Harlan Boyles recognized the importance of strong financial institutions as a foundation for economic growth and vitality of the State's commerce, and

Whereas, Harlan Boyles has helped pave the way for North Carolina becoming one of the nation's great banking centers; and

Whereas, as Chairman of the Local Government Commission, Harlan Boyles continued the effort begun during his 16 years as Deputy State Treasurer of assisting local governments in becoming financially sound, and at the time of his retirement, North Carolina had more Triple-A units of local government than any other state in the nation, in fact, accounting for 25 percent of all the nation's Triple-A units of local government; and

Whereas, under Harlan Boyles' leadership as Chairman of the Boards of Trustees of the Teachers' and State Employees' Retirement System, Local Government Employees' Retirement System, and Firemen's and Rescue Workers' Pension Fund, North Carolina earned the enviable distinction of having the best managed public employee retirement system in the nation, perhaps in all the world; and

Whereas, Harlan Boyles also served ably as a member of the Council of State, Chairman of the Tax Review Board, Chairman of the North Carolina Educational Facilities Finance Agency, Chairman of the North Carolina Solid Waste Management Capital Projects Finance Agency, member of the Capital Planning Commission, North Carolina Housing Partnership, and the North Carolina Air Cargo Airport Authority; and

Whereas, Harlan Boyles was recognized by his peers who elected him President of the National Association of State Auditors, Comptrollers and Treasurers, and was named Public Official of the Year in 1995 by Governing Magazine; and the National Association of State Auditors, Comptrollers and Treasurers gave him their President's Award in 1995; and

Whereas, Harlan Boyles was the recipient of numerous professional and public service honors, including: the North Carolina Award for Public Service 1999; North Carolina Citizens for Business and Industry Distinguished Service Award 1987 North Carolina Association of County Commissioners Distinguished Service Award 1993; Outstanding CPA in Business and Industry Award by the NC Association of CPAs 1994; University of North Carolina at Chapel Hill Distinguished Alumnus Award 1995; and Honorary Doctorate Awards by Appalachian State University in 1994, Campbell University in 1995, and Catawba College in 1996; and

Whereas, Harlan Boyles was inducted into the North Carolina Business Hall of Fame in 2000 and received the I. E. Ready Award for Distinguished Service to the North Carolina Community College System in 2000 and the A. E. Finley Award for Distinguished Service in 2002; and



## Resolutions - 2003

Whereas, Appalachian State University established a lecture series in his honor in 1991 and it continues successfully to this day; and

Whereas, Harlan Boyles was the author of numerous articles on public finance, and the highly acclaimed book, "Keeper of the Public Purse," published by Appalachian State University in 1994; and

Whereas, Harlan Boyles, in addition to being a good and dedicated public servant, was a loyal and devoted member of his church, Westminster Presbyterian Church of Raleigh, during his entire adult life, serving as clerk, treasurer, deacon, and elder; and

Whereas, Harlan Boyles died on January 23, 2003, at the age of 73, but his legacy continues with his wife of 51 years, the former Frankie Wilder of Johnston County; daughters, Mrs. Phyllis Godwin and husband, James R., of Raleigh; Mrs. Lynn Butler and husband, Jeffrey, of Raleigh; son H. Edward Boyles, Jr. and wife, Meg, of Charlotte; and five grandchildren, Kelly Butler, Zachary Butler, and Clint Ferrell of Raleigh, and Harlan Boyles III and Blair Boyles of Charlotte; and

Whereas, as State Treasurer and as a public servant in other positions, Harlan Boyles earned the respect of colleagues and peers throughout North Carolina and the nation for his financial acumen, his knowledge and wisdom, his strength of character, and especially for his great sense of personal integrity; and

Whereas, in his prime, Harlan Boyles was considered the best State Treasurer in America; and

Whereas, Harlan Boyles will be remembered by all who knew him as a man devoted to his family, church, community, State and public service; Now, therefore,

*Be it resolved by the Senate, the House of Representatives concurring:*

**SECTION 1.** The General Assembly honors the memory of Harlan Boyles and expresses the appreciation and gratitude of this State and its citizens for his life and service to the people of North Carolina.

**SECTION 2.** The General Assembly extends its deepest sympathy to the family of Harlan Boyles for the loss of a dearly loved family member.

**SECTION 3.** The Secretary of State shall transmit a certified copy of this resolution to the family of Harlan Boyles.

**SECTION 4.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 17<sup>th</sup> day of March, 2003.

**H.J.R. 472**

**Resolution 2003-6**

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF MARY LEWIS WYCHE, FOUNDER AND FIRST PRESIDENT OF THE NORTH CAROLINA NURSES ASSOCIATION AND ONE OF THE THREE NURSES APPOINTED TO THE FIRST NORTH CAROLINA BOARD OF NURSE EXAMINERS, ON THE ONE HUNDREDTH ANNIVERSARY OF PROFESSIONAL NURSING IN NORTH CAROLINA.

Whereas, in 1894, Mary Lewis Wyche, native of Vance County and graduate of Philadelphia General Hospital School of Nursing, founded North Carolina's first school of nursing at Rex Hospital in Raleigh; and

## Resolutions - 2003

Whereas, on October 24, 1901, Mary Lewis Wyche called together nurses in the Raleigh area and formed the Raleigh Nurses Association; and

Whereas, the following year on October 28, 1902, Mary Lewis Wyche invited nurses from across the State to meet with members of the Raleigh Nurses Association, and together they founded the North Carolina State Nurses Association, now known as the North Carolina Nurses Association; and

Whereas, Mary Lewis Wyche, as president of the North Carolina State Nurses Association, successfully lobbied for the establishment of the first nursing laws in the United States; and

Whereas, the first Nursing Practice Act in the United States was signed into law on March 3, 1903, by Governor Charles Aycock; and

Whereas, the North Carolina Board of Nurse Examiners, now known as the Board of Nursing, became the first board of nursing in the United States; and

Whereas, Josephine Burton of Craven County became the first registered nurse in the United States on June 4, 1903; and

Whereas, Mary Rose Battenhan of Buncombe County registered as a nurse on June 5, 1903; and

Whereas, the North Carolina Nurses Association and the North Carolina Board of Nursing are jointly celebrating their 100<sup>th</sup> anniversary; and

Whereas, the North Carolina Nurses Association has worked throughout its existence to promote the profession of nursing through strengthening education and practice standards; and

Whereas, the North Carolina Nurses Association advocates both for registered nurses in their workplace and for quality care for their patients; and

Whereas, the North Carolina Board of Nursing ensures safe care to the public through the licensure of registered nurses and licensed practical nurses, approval of education programs, and regulation of the scope of nursing practice; and

Whereas, the North Carolina Board of Nursing is the only organization in the United States whose nurses elect the nurse members of the Board; and

Whereas, the North Carolina Nurses Association and the North Carolina Board of Nursing, working together, serve to improve access to quality health care for the citizens of North Carolina; Now, therefore,

*Be it resolved by the House of Representatives, the Senate concurring:*

**SECTION 1.** The General Assembly honors the life and memory of Mary Lewis Wyche and expresses appreciation for the contributions she made to the State of North Carolina, the North Carolina Nurses Association and the North Carolina Board of Nursing. The General Assembly recognizes the historical accomplishments of the North Carolina Nurses Association, and the North Carolina Board of Nursing and congratulates them on 100 years of dedicated commitment to improving the health of the citizens of North Carolina and to advancing the nursing profession by promoting high standards of nursing education and nursing practice.

**SECTION 2.** The Secretary of State shall transmit a certified copy of this resolution to the President of the North Carolina Nurses Association and the Chairman of the North Carolina Board of Nursing.

**SECTION 3.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 3<sup>rd</sup> day of April, 2003.

**H.J.R. 392**

**Resolution 2003-7**

**A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF J. FRANK BRYANT, FORMER MEMBER OF THE GENERAL ASSEMBLY.**

Whereas, J. Frank Bryant was born in Yadkin County on August 17, 1927, to Julius Frank Bryant and Dixie Miller Bryant; and

Whereas, Frank Bryant attended Wake Forest University, where he was a member of Pi Kappa Alpha Fraternity; and

Whereas, Frank Bryant was a retired dairy and tobacco farmer who was active in his rural community and State affairs; and

Whereas, Frank Bryant served with honor and distinction in the House of Representatives during the 1959 Session of the General Assembly; and

Whereas, Frank Bryant was just one of two Democrats from Yadkin County to serve in the General Assembly in the last 40 years; and

Whereas, Frank Bryant's influence went well beyond the political arena, making his largest imprint on the area years after he left the State legislature; and

Whereas, Frank Bryant was well-known in the business world, serving on State and national business advisory boards; and

Whereas, Frank Bryant was a member of the Board of Directors of the North Carolina Farm Bureau for over 25 years, serving several years as vice-president; was a founding member of the Board of Directors of the Carolina-Virginia Milk Producers Association; served on the Board of Directors of the Tobacco Stabilization and Tobacco Associates; served as vice-president of the North Carolina Agribusiness Council, as president of the North Carolina Agricultural Foundation at North Carolina State University, as president and chair of the Board of Directors of the Northwest North Carolina Development Association; and was a member of the Dixie Classic Fair Commission and the Memorial Coliseum Commission in Winston-Salem; and

Whereas, Frank Bryant served as an advisor to the United States Department of Agriculture, as supervisor of the Winston-Salem Tobacco Market, and as chair of the Federal Industrywide Flue-Cured Tobacco Marketing Committee; and

Whereas, Frank Bryant was a veteran of the Korean Conflict, having served in the United States Army, and was a member of the Boonville United Methodist Church; and

Whereas, Frank Bryant was selected as "Tarheel of the Week" by The Raleigh News and Observer; and

Whereas, Frank Bryant passed away in 2002, leaving to cherish his memory, his wife, Juanita Martin Bryant; a son, Steve and wife Dawn Bryant; a daughter, Debra Bryant; a son, Jay and wife Denita Bryant; and grandchildren, Katie, Kelly, George, and Claire Bryant, and Kori Reece; and

Whereas, in an era when many Americans are disillusioned with their public servants, Frank Bryant was a shining example of someone who could make a difference; and

Whereas, the citizens of this State should build on Frank Bryant's legacy and find others to follow in his footsteps; Now, therefore,

*Be it resolved by the House of Representatives, the Senate concurring:*

**SECTION 1.** The General Assembly recognizes the life and legacy of a distinguished public servant, J. Frank Bryant, and commends his life and accomplishments to the citizens of North Carolina.

**SECTION 2.** The General Assembly extends its deepest sympathy to the family of J. Frank Bryant for the loss of a beloved family member.

**SECTION 3.** The Secretary of State shall transmit a certified copy of this resolution to the family of J. Frank Bryant.

**SECTION 4.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 9<sup>th</sup> day of April, 2003.

**H.J.R. 681**

**Resolution 2003-8**

A JOINT RESOLUTION HONORING THE 250<sup>TH</sup> ANNIVERSARY OF ROWAN COUNTY AND THE MEMORY OF MATTHEW ROWAN.

Whereas, Rowan County was established 250 years ago on April 12, 1753, through an act of the General Assembly of North Carolina; and

Whereas, Rowan County, named for Matthew Rowan, an acting governor, continues to act in the best interest of those who govern her, the people; and

Whereas, this county has played a significant role in the development of all of North Carolina and her people:

- (1) First serving as home to important Yadkin riverbank dwellings of Native Americans, including the Guatari, Catawba, and Sapona, host to explorers of the North American Continent, including Juan Pardo, John Lawson, and John Lederer.
- (2) Becoming the crossroads of the colonial era backcountry, where the Great Wagon Road met the Indian Trading Path, bringing a flood of German and Scots-Irish immigrants to be neighbors.
- (3) Emerging as a gateway for the next westward movement into the new frontiers of Tennessee, Kentucky, and beyond.
- (4) Later developing into one of the most productive agricultural centers in North Carolina, being among the State's first adopters of what was called "scientific farming".
- (5) Later helping to build the industrial base of the State, providing a home to early textile mills, mining, quarrying, and a major railway repair facility.
- (6) More currently leading the way in the development of an impressive quality of life infrastructure, including historic preservation, county-run recreation, farmland preservation, arts programs, greenway building, and public access to Internet technologies; and

Whereas, Rowan County, formed from Anson County and once able to claim the farthest west county seat of any government in the young nation, her western border left simply to be marked by the wanderlust and courage of her citizenry, has supplied and continues to supply leaders in public service, journalism, commerce, the arts, and education who, like their forebears, continue to press upon borders and seek new challenges, striving all the while to build a better place for themselves and their families; and

## Resolutions - 2003

Whereas, it is appropriate that the citizens of this county, including her 10 incorporated municipalities, set aside April 12, 2003, to mark the milestone of the County's 250<sup>th</sup> birthday; and

Whereas, the citizens shall celebrate this event throughout 2003 with a parade, appearances by dignitaries and celebrities, military jet flyovers, and other events right and proper for the occasion, a celebration that should be enjoyed and supported by all citizens of this great State; Now, therefore,

*Be it resolved by the House of Representatives, the Senate concurring:*

**SECTION 1.** The General Assembly honors the memory of Matthew Rowan, takes official notice of the good works of the citizens of Rowan County this past quarter of a millennium, and extends its appreciation for the role they have played in building and sustaining the Tar Heel State.

**SECTION 2.** The General Assembly commends unto the citizens of North Carolina the opportunity to join the people of Rowan County in their memorial festivities and urges their participation.

**SECTION 3.** The Secretary of State shall transmit a certified copy of this resolution to the Chair of the Rowan County Board of Commissioners.

**SECTION 4.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 10<sup>th</sup> day of April, 2003.

**H.J.R. 813**

**Resolution 2003-9**

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF BONNIE E. CONE, FOUNDER OF THE UNIVERSITY OF NORTH CAROLINA AT CHARLOTTE.

Whereas, Bonnie E. Cone was born in Lodge, South Carolina, on June 22, 1907, to Charles Cone and Addie Harter Cone; and

Whereas, Bonnie Cone graduated magna cum laude from Coker College in 1928 and earned a masters degree in mathematics from Duke University in 1941; and

Whereas, Bonnie Cone spent much of her life as an educator, inspiring countless students to excel in science; and

Whereas, in 1943, Bonnie Cone was recruited to teach math at Duke University, where she was the only female teacher on Duke's west campus; and

Whereas, in 1945, Bonnie Cone worked in the Naval Ordnance Lab in Washington, D.C., as a statistical analyst studying mine detection reports; and

Whereas, Bonnie Cone returned to North Carolina in 1946 and began teaching at Central High School in Charlotte; and

Whereas, during this time, Bonnie Cone also served as a part-time math instructor at the University of North Carolina's Charlotte Center, a night school established to aid veterans of World War II; and

Whereas, in 1948, Bonnie Cone became the director of the Center; and

Whereas, Bonnie Cone worked diligently on behalf of the Center, aiding in the conversion of the Center into Charlotte College, a two-year institution; raising funds to buy land for a separate campus; obtaining support from the City's business community to support the College; garnering approval from the City's voters for a

special tax to maintain the College; and lobbying for the expansion of the College's curriculum into a four-year college; and

Whereas, in 1965, Bonnie Cone's hard work on behalf of the College was recognized and rewarded when Charlotte College was made a part of the State's university system; and

Whereas, Bonnie Cone served as acting Chancellor of the University of North Carolina at Charlotte in 1966, and for a number of years served as Vice-Chancellor for student affairs and community relations; and

Whereas, after retiring, Bonnie Cone continued to work vigorously on behalf of the University, helping with fundraising and building alumni support; and

Whereas, Bonnie Cone was truly proud of the University she founded and was greatly honored when the University named its Student Union after her and established five Distinguished Professorships in her name; and

Whereas, Bonnie Cone served as a trustee of Coker College and Belmont Abbey College, as a member of the Board of Visitors at both Davidson College and Johnson C. Smith University, and as the first female President of the Southern Association of Junior Colleges; and

Whereas, Bonnie Cone was a supporter of various organizations, including the Charlotte Symphony, the Charlotte Opera, the Boy Scouts, the YWCA, the Children's Nature Museum, Habitat for Humanity, the United Arts Council, and the Charlotte Central Lions Club; and

Whereas, Bonnie Cone was the recipient of numerous awards and recognitions, including the National Conference of Christians and Jews Silver Medallion for citizenship in 1962; the 26<sup>th</sup> Judicial District Bar Association's Law Day Liberty Bell Award in 1966; and the North Carolina Award from the Board of Governors of The University of North Carolina in 1982, of which she was the first female recipient; and

Whereas, Bonnie Cone received honorary degrees from Davidson College, Coker College, Belmont Abbey College, Queens College, Mt. Holyoke College, Wake Forest University, Pfeiffer University, Duke University, Lander University, and the University of North Carolina at Charlotte; and

Whereas, Bonnie Cone lived by the motto: "I am only one, but I am one. I cannot do everything, but I can do something. What I can do, I ought to do, and what I ought to do, by the Grace of God, I will"; and

Whereas, Bonnie Cone died on March 8, 2003, leaving a legacy of commitment and dedication to the education of the people of this State and nation; Now, therefore,

*Be it resolved by the House of Representatives, the Senate concurring:*

**SECTION 1.** The General Assembly honors the memory of Bonnie E. Cone and expresses the gratitude of the citizens of this State for the service she rendered and the contributions she made in founding the University of North Carolina at Charlotte.

**SECTION 2.** The General Assembly expresses its deepest sympathy to the family of Bonnie E. Cone for the loss of a beloved family member.

**SECTION 3.** The Secretary of State shall transmit a certified copy of this resolution to the family of Bonnie E. Cone and to the Chancellor of the University of North Carolina at Charlotte.

**SECTION 4.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 28<sup>th</sup> day of April, 2003.

**S.J.R. 1019**

**Resolution 2003-10**

A JOINT RESOLUTION ACKNOWLEDGING THE HENDERSON COUNTY EDUCATION FOUNDATION ON ESTABLISHING A HALL OF FAME AND HONORING THE MEMORY OF GLENN C. MARLOW AND HUGH D. RANDALL, FORMER SUPERINTENDENTS AND INDUCTEES OF THE HALL OF FAME.

Whereas, the Henderson County Education Foundation has established a Hall of Fame to honor individuals who have demonstrated measurable influence or made significant contributions to the growth and development of education in Henderson County; and

Whereas, a selection committee, consisting of a teacher, a school administration, a foundation board member, and two county residents, has recommended 14 people as the first inductees into the Hall of Fame; and

Whereas, inductees were nominated in the categories of teacher or administrator, other contributor, including school board members, and support personnel; and

Whereas, the inductees are former county superintendents, R.G. Anders and Glenn C. Marlow; school board member Mary Kellogg Bell; city superintendents Charles L. Byrd and Hugh D. Randall; former teachers Amy F. Pace and Susie Smith Sinclair; former principals C.F. Jervis and Ernest L. Justus; Blue Ridge Community College founding President William D. Killian; former county system secretary and finance officer Grace E. Ledbetter; former teacher and principal John R. Marable; principal, county school board member, and Blue Ridge Community College trustee Joe D. Spearman, Sr., and former county physical education director Kenneth B. "Keg" Wheeler; and

Whereas, the Hall of Fame is a fitting memorial to the late Glenn C. Marlow and Hugh D. Randall, former school administrators and first-time inductees; and

Whereas, Glenn C. Marlow, who served as a teacher, principal, and superintendent, was successful at motivating students and managing school funds. During his tenure as the County's superintendent, a State accreditation report ranked the Henderson County Public Schools second among 134 school systems on standards of performance and opportunity for the 1989-1990 school year; and

Whereas, Hugh D. Randall served as superintendent of the former city schools from 1954 to 1978 and was instrumental in getting kindergarten started statewide, helping establish Blue Ridge Community College, and setting up one of the first schools for immigrants. He was responsible for expanding school personnel to include a physical education teacher, secretary, librarian, and assistant principal in each school; and

Whereas, each year the Education Foundation plans to add five new members to the Hall of Fame; and

Whereas, establishing the Hall of Fame is worthy of recognition and acknowledgement; Now, therefore,

*Be it resolved by the Senate, the House of Representatives concurring:*

**SECTION 1.** The General Assembly honors the memory of former superintendents Glenn C. Marlow and Hugh D. Randall, two individuals who dedicated their lives to educating the children of Henderson County.

**SECTION 2.** The General Assembly acknowledges the Henderson County Education Foundation on establishing the Hall of Fame to recognize those who have gone beyond the call of duty in providing an education to the children of Henderson County.

**SECTION 3.** The Secretary of State shall transmit a certified copy of this resolution to the Henderson County Education Foundation.

**SECTION 4.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 1<sup>st</sup> day of May, 2003.

**H.J.R. 1161**

**Resolution 2003-11**

A JOINT RESOLUTION HONORING NASCAR, ITS PIONEER RACING FAMILIES AND DRIVERS, AND NORTH CAROLINA MOTOR RACING.

Whereas, North Carolina takes great pride in its position as the stock car racing capital of the United States and the world; and

Whereas, North Carolina is the home of NASCAR, which staged its first sanctioned "purely stock car" race at the Charlotte Speedway on June 19, 1949; and

Whereas, since that time, NASCAR and motorsports events have become and remain hugely popular with the people of North Carolina, with more than one million people attending motorsports events in North Carolina each year, thereby substantially enhancing the tourism industry in and economy of North Carolina; and

Whereas, North Carolina currently hosts five NASCAR Winston Cup events, with two being held at the North Carolina Speedway in Rockingham and three at the Lowe's Motor Speedway, near Charlotte, and is thus the stock car racing capital of the world; and

Whereas, these Winston Cup races materially affect North Carolina's economy, and the loss of any Winston Cup event would have a tremendous negative impact on jobs and tax revenues in the Rockingham and Charlotte areas and the tourism industry in North Carolina in general; and

Whereas, North Carolina has established the William States Lee College of Engineering at the University of North Carolina at Charlotte which offers an undergraduate program concentrating on motorsports engineering; and

Whereas, after World War II, stock car racing evolved as a sport in the foothills, the pinewoods, and the piedmont of North Carolina, quickly becoming one of the deepest traditions in North Carolina popular culture; and

Whereas, more NASCAR teams are located in North Carolina than in any other state; several world-class tracks stretch across North Carolina and provide racing enthusiasts with a chance each year to watch the legends of stock car racing; and North Carolina has produced more Winston Cup champions than any other state; and

Whereas, no one who ever saw them will forget the legendary pioneer stockcar drivers who were native or adopted Tar Heels, such as Curtis Turner, Fireball Roberts, Lee Petty, Speedy Thompson, Herb Thomas, Banjo Matthews, Junior Johnson,



Ralph Earnhardt, Wendell Scott, Tim and Fonty Flock, Buck Baker, and others too numerous to mention; and

Whereas, the Pettys, the Earnhardts, and the Jarretts of North Carolina are among the most famous racing families in the world and still call North Carolina home; and

Whereas, it is in the best interests of North Carolina and of NASCAR to continue the extremely close relationships that have developed and to continue to cooperate and work together to provide and retain the current Winston Cup races held at Rockingham and Charlotte; and

Whereas, in 1996, a study prepared by the North Carolina Department of Commerce found that the motorsports industry contributed \$392 million to the State's economy and employed more than 4,000 people, and in 2003, that economic impact figure has climbed to over \$1.5 billion and more than 10,000 jobs; Now, therefore,

*Be it resolved by the House of Representatives, the Senate concurring:*

**SECTION 1.** The North Carolina General Assembly celebrates, commends, and commemorates NASCAR for the many valuable contributions it has made to the sporting scene and popular culture in North Carolina and its important support of and contributions to North Carolina's economy.

**SECTION 2.** The North Carolina General Assembly celebrates and honors the memory of the Pettys, the Earnhardts, and the Jarretts, North Carolina's famous racing families, as well as the memory of the courageous pioneer stock car drivers, who made NASCAR and North Carolina motorsports the legends that they are today.

**SECTION 3.** The Secretary of State shall transmit a certified copy of this resolution to the governing body and officers of NASCAR, to the owner of the North Carolina Speedway, and to the owner of the Lowe's Motor Speedway.

**SECTION 4.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 15<sup>th</sup> day of May, 2003.

**S.J.R. 366**

**Resolution 2003-12**

A JOINT RESOLUTION PROVIDING FOR A JOINT SESSION OF THE GENERAL ASSEMBLY TO ACT ON A JOINT RESOLUTION PROVIDING FOR CONFIRMATION OF THE APPOINTMENTS BY THE GOVERNOR OF NEW MEMBERS TO THE STATE BOARD OF EDUCATION.

Whereas, under the provisions of the Constitution of North Carolina and G.S. 115C-10, appointments by the Governor to membership on the State Board of Education are subject to confirmation by the General Assembly in joint session; and

Whereas, vacancies have occurred on the State Board of Education; and

Whereas, the Governor will transmit to the presiding officers of the Senate and the House of Representatives the names of his appointees to fill the terms of membership on the State Board of Education which expire March 31, 2011; Now, therefore,

*Be it resolved by the Senate, the House of Representatives concurring:*

**SECTION 1.** Upon the call of the President Pro Tempore of the Senate and the Speaker of the House of Representatives, the General Assembly shall meet in joint session to act on a joint resolution providing for confirmation of the appointments by the Governor of new members to the State Board of Education.

**SECTION 2.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 3<sup>rd</sup> day of June, 2003.

**S.J.R. 365**

**Resolution 2003-13**

A JOINT RESOLUTION PROVIDING FOR CONFIRMATION OF THE APPOINTMENTS OF ROBERT TOM SPEED, KATHY A. TAFT, AND JOHN A. TATE, III TO MEMBERSHIP ON THE STATE BOARD OF EDUCATION.

Whereas, under the provisions of the Constitution of North Carolina and G.S. 115C-10, appointments by the Governor to membership on the State Board of Education are subject to confirmation by the General Assembly in joint session; and

Whereas, vacancies have occurred on the State Board of Education; and

Whereas, the Governor has transmitted to the presiding officers of the Senate and the House of Representatives the names of his appointees to fill the terms of membership on the State Board of Education which expire March 31, 2011; Now, therefore;

*Be it resolved by the Senate, the House of Representatives concurring:*

**SECTION 1.** The appointments of Robert Tom Speed, Kathy A. Taft, and John A. Tate, III to membership on the State Board of Education for terms to expire March 31, 2011, are confirmed.

**SECTION 2.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 3<sup>rd</sup> day of June, 2003.

**S.J.R. 1024**

**Resolution 2003-14**

A JOINT RESOLUTION COMMEMORATING THE NORTH CAROLINA COMMUNITY COLLEGE SYSTEM ON THE OCCASION OF ITS FORTIETH ANNIVERSARY AND HONORING THOSE WHO HELPED CREATE THE COMMUNITY COLLEGE SYSTEM.

Whereas, the foresight, commitment, and endeavors of many who embraced the philosophy of total education, including Governor Luther Hodges, Governor Terry Sanford, Dallas Herring, Issac Epps (I.E.) Ready, and State Representatives Ned Delamar, Gordon Greenwood, Russell Swindell, and Edward Wilson led to the legislation creating a system of community colleges; and

Whereas, in the years following World War II, North Carolina began a rapid shift from an agricultural to an industrial economy; and

Whereas, with that change came an awareness that a different kind of education was needed in the State; and

## Resolutions - 2003

Whereas, in 1957, the General Assembly adopted the first Community College Act and provided funding for community colleges and also provided funding to initiate a statewide system of Industrial Education Centers. These centers were to train adults and selected high school students in skills needed by industry; and

Whereas, on May 17, 1963, the General Assembly enacted the law that provided for the establishment of a Department of Community Colleges under the State Board of Education and for the administration of institutions in the Community College System. There were then 20 industrial education centers, six community colleges (three of which became four-year schools in 1963), and five extension units; and

Whereas, by 1966, there were 43 institutions with 28,250 full-time equivalent (FTE) enrollments. In 1969, there were 54 institutions with 59,329 FTE. The system grew very rapidly, exceeding 10% annually nearly every year until the late 1970s. In 1974-1975, growth reached the 33% mark; and

Whereas, the system continues to grow in enrollments nearly every year; and

Whereas, the original legislation placed the community college system under the purview of the State Board of Education and created a State Department of Community Colleges. In 1979, the General Assembly changed the State control of the system. A provision was made for a separate State Board of Community Colleges. The Board was appointed and organized in 1980. The new Board assumed full responsibility for the system on January 1, 1981; and

Whereas, in 1988, the North Carolina Community College System celebrated its 25th anniversary, recognizing that in its first quarter century of service, the system had emerged as the nation's third largest community college network, educating millions of students during its 32-year history and employing thousands of faculty and staff; and

Whereas, the North Carolina Community College System has from its earliest days proudly pursued the philosophy of the "open door" by providing convenient and affordable access to any student seeking to benefit from the resources offered at a community college; and

Whereas, during the 40 years since that historic day in 1963, each institution of the North Carolina Community College System has been committed to providing workforce training and retraining, sustained support for economic development, and comprehensive services to communities and individuals; and

Whereas, the North Carolina Community College System has had from its inception as its primary mission the training of North Carolina's workforce; and

Whereas, in order to carry out that mission, the North Carolina Community College System supports the State's business and industry sector by providing a myriad of services, including focused industrial training, new and expanding industry training, small business centers, joblink career centers, and human resources development; and

Whereas, more than 800,000 adults now enroll each year in the North Carolina Community College System; and

Whereas, the North Carolina Community College System serves a broad range of persons with differing needs, skills, and interests by providing a wide range of educational opportunities, including basic skills (adult high school, general educational development (GED), adult basic education, and English as a second language); continuing education; college tech prep, curriculum (certificates, diplomas, and associate degrees), and college transfer; and

Whereas, the North Carolina Community College System is vital to our State's economic recovery, growth, and future success; Now, therefore,

*Be it resolved by the Senate, the House of Representatives concurring:*

**SECTION 1.** The General Assembly honors the memory of Governor Terry Sanford and the other individuals named in this resolution for their role in helping to create the North Carolina Community College System.

**SECTION 2.** The General Assembly congratulates the founders, leaders, supporters, faculty, staff, and students of the North Carolina Community College System on four decades of tremendous achievement. The General Assembly further charges these individuals with the task of making a great system better and pledges a continued partnership in this vital task.

**SECTION 3.** The Secretary of State shall transmit a certified copy of this resolution to the Chair of the State Board of Community Colleges.

**SECTION 4.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 4<sup>th</sup> day of June, 2003.

**H.J.R. 844**

**Resolution 2003-15**

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF ELMER "E.V." WILKINS, FORMER EDUCATOR AND CIVIC LEADER.

Whereas, Elmer Vanray "E.V." Wilkins was born on July 4, 1911, to Tom and Maggie Wilkins in Roper, North Carolina; and

Whereas, E.V. Wilkins received his B.S. and M.A. degrees from North Carolina Central University; and

Whereas, E.V. Wilkins taught mathematics in Roper at J.J. Clemmons High School, which was renamed Washington County Union School; and

Whereas, while at Clemmons High School, E.V. Wilkins met the love of his life, Elizabeth Witherspoon, also a teacher, whom he later married; and

Whereas, E.V. Wilkins became principal of Clemmons High School in 1941 and served in that position until 1974; and

Whereas, E.V. Wilkins was a mentor to his young students, encouraging them to attain academic success; and

Whereas, in 1946, E.V. Wilkins was instrumental in raising money to purchase the school's first bus; and

Whereas, E.V. Wilkins and the National Association for the Advancement of Colored People won a major victory in the mid-1950s when the court sided with them in allowing African-American residents in Washington County the right to vote; and

Whereas, in 1967, E.V. Wilkins become the first African-American since reconstruction to be elected to the Roper Town Council; and

Whereas, in 1975, E.V. Wilkins was the first African-American elected as Mayor of Roper, a position he held for 20 years; and

Whereas, E.V. Wilkins was a member of numerous boards, serving on the State Board of Education, the State Economic Development Commission, the North Carolina Secondary Road Council, the North Carolina Railroad Board of Directors, and the North Carolina State Ports Authority; and

Whereas, E.V. Wilkins served as a member of the Board of Trustees of the North Carolina School of Science and Mathematics, the Advisory Board for the Rural Education Institution at East Carolina University, and of the Elizabeth City State

Resolutions - 2003

University Board of Trustees from 1987 to 1994, serving as Chair from 1989 to 1994; and

Whereas, E.V. Wilkins organized and served as director of the Industrialization Center in Roper from 1974 to 1975; and

Whereas, E.V. Wilkins was active in the Democratic party, serving as a delegate to the National Democratic Convention in 1972, 1980, and 1984; and

Whereas, E.V. Wilkins received numerous honors and awards, including the North Carolina Distinguished Citizen Award, the Order of the Long Leaf Pine Award, the Service Award by the North Carolina Leadership Caucus, the North Carolina Distinguished Service Award, and the North Carolina Human Relations Commission's Libby D. Koontz Award in recognition of his dedication and leadership in the areas of education, civil rights, and human rights; and

Whereas, E.V. Wilkins was honored by Elizabeth City State University when the University's computer center was renamed the E.V. Wilkins Academic Computing Center in 1992; and

Whereas, E.V. Wilkins was also honored by the University with the establishment of the E.V. Wilkins Endowed Chair in the Elizabeth City State University School of Education and Psychology in 1996; and

Whereas, E.V. Wilkins died on June 2, 2002; and

Whereas, E.V. Wilkins is survived by his daughters, Bunny Sanders and Joy Price, son-in-law, Ralph Price, and two grandchildren; Now, therefore,

*Be it resolved by the House of Representatives, the Senate concurring:*

**SECTION 1.** The General Assembly honors the life and memory of Elmer "E.V." Wilkins and expresses the gratitude of this State and its citizens for service he rendered.

**SECTION 2.** The General Assembly extends its deepest sympathy to the family of Elmer "E.V." Wilkins for the loss of a beloved family member.

**SECTION 3.** The Secretary of State shall transmit a certified copy of this resolution to the family of Elmer "E.V." Wilkins.

**SECTION 4.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 11<sup>th</sup> day of June, 2003.

**S.J.R. 1021**

**Resolution 2003-16**

A JOINT RESOLUTION PROVIDING FOR THE CONFIRMATION OF THE REAPPOINTMENT OF JO ANNE SANFORD TO THE UTILITIES COMMISSION.

Whereas, under the provisions of G.S. 62-10, appointments made by the Governor to membership on the North Carolina Utilities Commission are subject to confirmation by the General Assembly by joint resolution; and

Whereas, a vacancy will occur on the North Carolina Utilities Commission on June 30, 2003, by expiration of term; and

Whereas, the Governor has submitted to the presiding officers of the House of Representatives and the Senate the names of his appointee, Jo Anne Sanford, to serve a term on the North Carolina Utilities Commission, which will begin July 1, 2003, and expire June 30, 2011; Now, therefore,

Resolutions - 2003

*Be it resolved by the Senate, the House of Representatives concurring:*

**SECTION 1.** The appointment of Jo Anne Sanford to the North Carolina Utilities Commission for a term to begin July 1, 2003, and expire June 30, 2011, is confirmed.

**SECTION 2.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 12<sup>th</sup> day of June, 2003.

**S.J.R. 1026**

**Resolution 2003-17**

A JOINT RESOLUTION PROVIDING THAT THE 2003 GENERAL ASSEMBLY SHALL MEET IN JOINT SESSION TO COMMEMORATE THE 100<sup>TH</sup> ANNIVERSARY OF ORVILLE AND WILBUR WRIGHT'S FIRST FLIGHT AND INVITING HIS EXCELLENCY, GOVERNOR MICHAEL F. EASLEY.

Whereas, on June 17, 1909, Orville and Wilbur Wright were awarded the Congressional Medal of Honor; and

Whereas, during the 100th anniversary of the Wright brothers' first flight, it is fitting that the General Assembly pay tribute to the Wright brothers during a joint session on this date; Now, therefore,

*Be it resolved by the Senate, the House of Representatives concurring:*

**SECTION 1.** On Tuesday, June 17, 2003, at 2:00 P.M., the Senate and the House of Representatives shall meet in joint session in the Hall of the Senate to commemorate the 100<sup>th</sup> anniversary of Orville and Wilbur Wright's first flight.

**SECTION 2.** The Honorable Michael F. Easley, Governor, is invited to the joint session.

**SECTION 3.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 16<sup>th</sup> day of June, 2003.

**H.J.R. 1329**

**Resolution 2003-18**

A JOINT RESOLUTION HONORING THE TOWN OF LILLINGTON ON THE OCCASION OF THE TOWN'S CENTENNIAL AND HONORING THE MEMORY OF GENERAL ALEXANDER LILLINGTON.

Whereas, the Town of Lillington was formally incorporated in 1903, through an act of the General Assembly, although the area had been home to enterprising, patriotic, loyal, and publicly spirited settlers and citizens for nearly 200 years prior to its incorporation; and

Whereas, the citizens of the Town of Lillington and the surrounding communities have honored our State and country in a wide range of duties and tasks that represent the best of American citizenship, both in times of war and peace, many making the supreme sacrifice in those efforts; and

Whereas, the Town of Lillington bears the name of General Alexander Lillington, a hero of the American Revolutionary War, widely known for his role during the Battle of Moores Creek Bridge in 1776, a victory which inspired others throughout the colonies; and

## Resolutions - 2003

Whereas, the Town of Lillington is celebrating its honored past and the centennial of its incorporation in ceremonies on July 4<sup>th</sup> and July 5<sup>th</sup> and during numerous activities throughout 2003; Now, therefore,

*Be it resolved by the House of Representatives, the Senate concurring:*

**SECTION 1.** The General Assembly honors the memory of General Alexander Lillington, takes notice of the good works of the citizens of the Town of Lillington during the past, and extends its appreciation for the role the Town's citizens have played in building and sustaining the State of North Carolina and the United States of America.

**SECTION 2.** The General Assembly congratulates the Town of Lillington for its fortitude and commitment and extends good wishes on this special and auspicious occasion.

**SECTION 3.** The Secretary of State shall transmit a copy of this resolution to the Mayor of the Town of Lillington.

**SECTION 4.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 17<sup>th</sup> day of June, 2003.

**S.J.R. 1023**

**Resolution 2003-19**

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF EDWARD NELSON WARREN, FORMER MEMBER OF THE GENERAL ASSEMBLY.

Whereas, Edward "Ed" Nelson Warren was born in the Stokes community of Pitt County on November 29, 1926, to Elmer Edward Warren and Daisy Cox Warren; and

Whereas, Ed Warren obtained his undergraduate education from Campbell University and Atlantic Christian College, received a masters degree at East Carolina University, and furthered his education at Duke University; and

Whereas, Ed Warren was employed with the Pitt County School System for 20 years, serving as a science teacher, coach, and principal for a number of schools; and

Whereas, Ed Warren was also a tobacco farmer, warehouse owner, and real estate investor; and

Whereas, Ed Warren served as a member of the Pitt County Board of Commissioners from 1974 to 1980, serving as chair from 1979 to 1980; and

Whereas, Ed Warren served with honor and distinction as a member of the General Assembly, serving five terms in the House of Representatives from 1981 through 1990 and six terms in the Senate from 1991 through 2002; and

Whereas, Ed Warren made significant contributions as a legislator, including serving as Chair of the Appropriations Committee on General Government and Chair of the Heart Disease and Stroke Prevention Task Force of North Carolina; and

Whereas, Ed Warren was active in the civic affairs of his community, serving as Chair of the Board of Trustees of Pitt County Memorial Hospital, the Pitt County Board of Health, the Board of Directors of the Greenville Chamber of Commerce, and the Pitt County Heart Association, and as a member of the Pitt County Airport Authority and the Board of Directors of Branch Banking & Trust Company; and

Whereas, Ed Warren was also active in the United Way, Salvation Army, and Greenville Rotary Club; and

Resolutions - 2003

Whereas, Ed Warren was named Pitt County Citizen of the Year in 1987 and was awarded the East Carolina University Alumni of the Year Award, the Award for Outstanding Support of Education by the North Carolina Education Association, the Distinguished Service Award in Recognition of Meritorious Service to Mental Health, and an honorary doctorate degree from East Carolina University; and

Whereas, Ed Warren was honored for his commitment and dedication to health care and education by the Board of Trustees at East Carolina University, which named its new life sciences building at the School of Medicine as the Edward Nelson Warren Life Sciences Building, and also recognized by Pitt Community College, which named its student center as the Ed and Joan Warren Student Center; and

Whereas, Ed Warren proudly served his country as a member of the United States Air Force from 1945 to 1948; and

Whereas, Ed Warren was a member of the First Christian Church, where he served as a deacon and member of the finance committee; and

Whereas, Ed Warren was married to the late Joan Braswell Warren for 49 years; and

Whereas, Ed Warren died on April 24, 2003; and

Whereas, Ed Warren is survived by two brothers, Donald Warren and Clifton Warren, and a sister, Sherry Warren Clark; Now, therefore,

*Be it resolved by the Senate, the House of Representatives concurring:*

**SECTION 1.** The General Assembly expresses its deep appreciation for the life and accomplishments of Edward Nelson Warren and for the great service he rendered to his nation, State, and community.

**SECTION 2.** The General Assembly extends its deepest sympathy to the family of Edward Nelson Warren for the loss of a beloved family member.

**SECTION 3.** The Secretary of State shall transmit a certified copy of this resolution to the family of Edward Nelson Warren.

**SECTION 4.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 18<sup>th</sup> day of June, 2003.

**S.J.R. 1027**

**Resolution 2003-20**

A JOINT RESOLUTION HONORING THE MEMORY OF ORVILLE AND WILBUR WRIGHT AND ENCOURAGING THE CITIZENS OF THIS STATE TO RECOGNIZE 2003 AS THE AVIATION CENTENNIAL YEAR IN NORTH CAROLINA.

Whereas, on December 17, 1903, at 10:35 A.M. near Kitty Hawk, North Carolina, Orville and Wilbur Wright made the first successful powered heavier-than-air flight, which lasted 12 seconds and traveled 120 feet; and

Whereas, a few years prior to the first flight, William Tate, Postmaster of Kitty Hawk, corresponded with the Wright brothers and encouraged them to test their experimental machine at the Outer Banks and later provided them with shelter in his home; and

Whereas, witnesses to the first flight were Kill Devil Hill Life Saving Station members John T. Daniels, Will S. Dough, and Adam D. Etheridge and Outer Banks inhabitants W.C. Brinkley and Johnny Moore; and



## Resolutions - 2003

Whereas, John T. Daniels took photographs of the first flight, providing the world with proof that this event took place that December morning; and

Whereas, the Wright brothers' flight, a monumental innovation of the 20<sup>th</sup> century, made a significant impact in our daily lives; and

Whereas, the development of flight changed the delivery of mail and goods; methods of travel, transportation, communications, and warfare; agriculture production; emergency medical services; law enforcement; environmental protection; search and rescue; and disaster relief; and

Whereas, aviation led to the development of aerospace technology, allowing space exploration and lunar landings and the creation of the international space station; and

Whereas, in 2001, the United States' aerospace and aviation industry employed more than two million people, and in 2000, the industry had a payroll of \$98 billion; and

Whereas, in 2001, the aerospace and aviation industry ranked 20<sup>th</sup> in North Carolina, providing over 38,000 jobs with a payroll of \$1.6 billion; and

Whereas, military aviation has an economic impact of more than \$4 billion a year in North Carolina; and

Whereas, to commemorate the 100<sup>th</sup> anniversary of the first flight, the 105<sup>th</sup> Congress declared 2003 as the Aviation Centennial Year in America; and

Whereas, during 2003, activities have been planned throughout the nation to mark the 100<sup>th</sup> anniversary of this historic flight; and

Whereas, in North Carolina, the City of Fayetteville hosted the Festival of Flight May 10-26, 2003, which featured such activities as an arts festival, a military air show at Pope Air Force Base, and an exposition with aviation displays and interactive exhibits; and

Whereas, North Carolina's First Flight Centennial Commission plans to commemorate the first flight with displays, aerial performances, and a reenactment of the December 17, 1903, flights at the Wright Brothers National Memorial; and

Whereas, the people of North Carolina are proud to live in the State where humankind's first flight took place; and

Whereas, it is only fitting that 2003 be recognized as the Aviation Centennial Year in North Carolina; Now, therefore,

*Be it resolved by the Senate, the House of Representatives concurring:*

**SECTION 1.** The General Assembly honors the memory of Orville and Wilbur Wright and expresses its appreciation for the contributions they made to aviation.

**SECTION 2.** The General Assembly encourages the citizens of the State to participate in activities commemorating the first flight and to join together in celebrating 2003 as the Aviation Centennial Year in North Carolina.

**SECTION 3.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 18<sup>th</sup> day of June, 2003.

**H.J.R. 606**

**Resolution 2003-21**

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF CLARENCE LIGHTNER, PROMINENT CIVIC LEADER, POLITICIAN, AND BUSINESSMAN.

Whereas, Clarence Everett Lightner was born on August 15, 1921, in Raleigh, North Carolina, to Calvin Lightner and Mammie Blackmon Lightner; and

Whereas, Clarence Lightner was educated in the Raleigh public schools and graduated from North Carolina Central University, where he was an outstanding athlete, especially in football, and Echols College of Mortuary Science; and

Whereas, Clarence Lightner was a licensed mortician and funeral director and successfully operated Lightner Funeral Home and Hillcrest Cemetery for many years; and

Whereas, Clarence Lightner represented southeast Raleigh on the Raleigh City Council from 1967 to 1973; and

Whereas, on November 6, 1973, Clarence Lightner made history when he was elected Mayor of Raleigh, making him the first African-American Mayor of a southern capital city and the first popularly elected Raleigh mayor since 1947; and

Whereas, on August 9, 1977, Clarence Lightner was appointed to the North Carolina State Senate by Governor James B. Hunt, Jr.; and

Whereas, Clarence Lightner was active in numerous local, State, and national organizations, serving as a charter member of the Southern Conference of Black Mayors, the parent organization of the National Conference of Black Mayors; President of the National Funeral Directors and Morticians Association; Chair of the National Life Membership Foundation of Omega Psi Phi Fraternity, Inc., and as a member of the Democratic National Committee and National Business League; and

Whereas, Clarence Lightner served as Chair of the Southeast Raleigh Improvement Commission from 1993 to 2001, and in that capacity played a significant role in completing the economic development study which serves as the current guideline for developing southeast Raleigh, implementing the Small Business Success Program, and creating the small business incubation program, which led to building, opening, and operation of the Raleigh Business and Technology Center; and

Whereas, Clarence Lightner was a steadfast advocate for higher education, serving as Chair of the Board of Trustees of Saint Augustine's College and as a member of the Board of Trustees of North Carolina State University for 10 years; and

Whereas, Clarence Lightner was awarded honorary doctoral degrees from Shaw University, Saint Augustine's College, and North Carolina Central University; and

Whereas, Clarence Lightner honorably served his country as a member of the United States Army during World War II; and

Whereas, Clarence Lightner was active in the Davie Street Presbyterian Church, where he served as an elder; and

Whereas, Clarence Lightner's devotion to improving the lives of others earned him the respect and admiration of all who knew and worked with him; and

Whereas, Clarence Lightner's influence in his community and his keen ability to negotiate made him a favorite among politicians and civic leaders, who often sought his advice and counsel; and

## Resolutions - 2003

Whereas, Clarence Lightner expressed many times his belief that no matter what goals we set, what is essential is not the things we do separately, but what we hold in common and what we get done together; and

Whereas, Clarence Lightner was a mentor to many African-American leaders, who through the years greatly benefited from his wise guidance; and

Whereas, Clarence Lightner died on July 8, 2002; and

Whereas, Clarence Lightner was a loving husband to Marguerite Massey Lightner and devoted father to Claire Lightner Sharpe, Debra Lightner Yancey, Bruce Lightner, and the late Lawrence Lightner; Now, therefore,

*Be it resolved by the House of Representatives, the Senate concurring:*

**SECTION 1.** The General Assembly honors the memory of Clarence Everett Lightner and expresses the appreciation of this State for his life, accomplishments, and service.

**SECTION 2.** The General Assembly extends its deepest sympathy to the family of Clarence Everett Lightner for the loss of their beloved family member.

**SECTION 3.** The Secretary of State shall transmit a certified copy of this resolution to the family of Clarence Everett Lightner.

**SECTION 4.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 19<sup>th</sup> day of June, 2003.

**H.J.R. 1331**

**Resolution 2003-22**

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF JANE HURLEY MOSLEY, FORMER MEMBER OF THE GENERAL ASSEMBLY.

Whereas, Jane Hurley Mosley was born on July 4, 1945, in Wake County, North Carolina, to James Thaw Hurley and Sarah Alford Hurley; and

Whereas, Jane Mosley graduated from Cary High School and attended North Carolina State University, North Carolina Wesleyan College, and Pacific Western University; and

Whereas, Jane Mosley worked in the field of public relations for a number of years, serving as Public Information Officer for the North Carolina Department of Community Colleges, Information and Communications Specialist for the North Carolina Department of Natural Resources and Community Development, Coordinator for Student Development Services of the Visiting Artist Program for the North Carolina Department of Community Colleges, Executive Director of the North Carolina Community College Alumni Scholarship Foundation, Inc., Public Relations Consultant for North Carolina Operation Lifesaver, Inc., and State Coordinator and President of Cary Public Relations, Inc.; and

Whereas, Jane Mosley proudly served her profession as a member of numerous organizations, including the North Carolina Passenger Safety Association, North Carolina Employees for Traffic Safety, North Carolina Law Enforcement Officers Association, North Carolina Association of Government Information Officers, Public Relations Society of America, Governor's Highway Safety Association, and Community College Adult Educators Association; and

Whereas, Jane Mosley served her community in many worthwhile capacities, serving as President of the Wake County Unit of the North Carolina Division of the

American Cancer Society, Vice-President of Public Government Affairs for the Cary Chamber of Commerce, Executive Coordinator of the Cary Clean Community System, and President, Vice-President, and Regional Director of the Cary Jaycettes and North Carolina Jaycettes; and

Whereas, Jane Mosley also served as a board member of the North Carolina Community College Alumni Foundation, Inc., North Carolina Operation Lifesaver, Inc., Wake County Arts Council, Rex Home Care, and Cary Chamber of Commerce; and

Whereas, Jane Mosley served with honor and distinction as a member of the North Carolina House of Representatives from 1993 to 1994 and from 1996 to 1999, contributing as a member of numerous House committees, including Ethics, Finance, Public Utilities, and Election Law and Campaign Reform, the Education Subcommittee on Community Colleges and Universities, and the Transportation Subcommittee on Highways; and

Whereas, Jane Mosley's commitment to improving safety at railroad crossings earned her the North Carolina State Highway Patrol Award for Safety in 1995, the Governor's Certificate of Appreciation for Safety in 1995, and the North Carolina Safety Award/Second in the Nation from North Carolina Operation Lifesaver, Inc., in 1990, 1991, 1994, and 1995; and

Whereas, Jane Mosley was recognized as the Most Outstanding Woman in State Government in 1972 and 1981, Volunteer of the Year (Ralph Whitaker Memorial Award) by the American Cancer Society in 1985, Tarheel of the Week in 1986, and Citizen of the Year by the Cary Chamber of Commerce in 1995; and

Whereas, Jane Mosley was active in the First United Methodist Church in Cary; and

Whereas, Jane Mosley died on September 28, 1999; and

Whereas, Jane Mosley is survived by her husband, Jerry W. Mosley, a son, Carlton Mosley, and a daughter, Kimberly Mosley White; Now, therefore,

*Be it resolved by the House of Representatives, the Senate concurring:*

**SECTION 1.** The General Assembly honors the life and memory of Jane Hurley Mosley and expresses the appreciation of this State and its citizens for the service she rendered.

**SECTION 2.** The General Assembly expresses its deepest sympathy to the family and friends of Jane Hurley Mosley for the loss of a beloved family member.

**SECTION 3.** The Secretary of State shall transmit a certified copy of this resolution to the family of Jane Hurley Mosley.

**SECTION 4.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 24<sup>th</sup> day of June, 2003.

**S.J.R. 608**

**Resolution 2003-23**

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF TIMOTHY REESE MCLAURIN.

Whereas, today we honor Timothy Reese McLaurin, whose seven books of fiction, memoir, and poetry traced the soul of North Carolina in rare and wondrous language. He framed its fields and towns, ponds and woods and rivers, and he captured

its people, the plain but never ordinary, rough-hewn, down-home, heroic folk who nurtured and fought and fled and loved each other and the land.

All this he did, according to his own prodigious imagination and craft, as a son of North Carolina who traveled widely in the world and deeply at home, but whose every hour was fed, even in his remotest sojourns, by the soil that made him who he was. Clearly he loved everything about North Carolina – the flat fields and woods east of Fayetteville and the forested hills west of Chapel Hill, and all the places in between.

We honor a man who grew up in small town North Carolina, worked in tobacco fields and played on his high school basketball team, traveled with his snakes in a carnival, served in both the Peace Corps and the Marine Corps, and graduated from the University of North Carolina with a degree in journalism and a fiery passion for words and story making.

We honor a man who joined the creative writing faculty of North Carolina State University in 1989 and who from that time became a powerful presence in the lives of hundreds of students.

The things that Tim McLaurin most honored by his living were his family, his craft, his legion of friends, the land that he held a sacred trust, and the young people who, turning to him for instruction, received rigorous honesty, great good humor, and inspiration as well. We in turn honor a man who fought tirelessly for what he believed in and in his last years, with grace and eloquence, fought against the disease of cancer.

To mark this battle he wore, on his chest, a tattoo of a Phoenix, a symbol that today recalls to us the stern beauty of his life and his written legacy. We can do no better than to let our last words of honor come from his pen, as he tells us:

"We are sons and daughters of the land, our heritage tied to fields and woods, the call of hunt, the spiritual transition of the seed that cracks the hard earth and grows into weed, food, flower, or tree. I have carried in my wallet for seven years a plastic sandwich bag filled with plain dirt scooped from the pasture behind the homeplace. It has traveled with me through Africa, Europe, and much of America, a talisman that whispers to me the song of mourning doves, wind in the longleaf pines, the low rumble of thunder from a summer storm that has recently passed and soaked the dry fields. I hope to waltz slowly to that tune the day I lift above this bright land;". Now, therefore,

*Be it resolved by the Senate, the House of Representatives concurring:*

**SECTION 1.** The General Assembly honors the memory of Timothy Reese McLaurin and expresses the appreciation of this State and its citizens for his life and accomplishments.

**SECTION 2.** The General Assembly extends its deepest sympathy to the family of Timothy Reese McLaurin for the loss of a beloved family member.

**SECTION 3.** The Secretary of State shall transmit a certified copy of this resolution to the family of Timothy Reese McLaurin.

**SECTION 4.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 14<sup>th</sup> day of July, 2003.

**H.J.R. 69**

**Resolution 2003-24**

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF THOMAS BELL HUNTER, FORMER MEMBER OF THE GENERAL ASSEMBLY.

Resolutions - 2003

Whereas, Thomas Bell Hunter was born on October 20, 1916, in Rockingham, North Carolina, to Dr. N. C. Hunter and Carrie Jones Hunter; and

Whereas, Thomas Bell Hunter attended the Rockingham and Laurinburg City Schools and the University of North Carolina at Chapel Hill; and

Whereas, Thomas Bell Hunter served his country as a member of the United States Army from 1942 to 1946, achieving the rank of captain; and

Whereas, Thomas Bell Hunter married Florence Ledbetter on September 18, 1947, and was the father of three sons, Thomas B. Hunter, Jr., Henry L. Hunter, and John W. Hunter; and

Whereas, Thomas Bell Hunter made a living in the insurance industry; and

Whereas, Thomas Bell Hunter served as Mayor of Rockingham from 1957 to 1963; and

Whereas, Thomas Bell Hunter served with honor and distinction as a member of the House of Representatives during the 1962, 1967, 1971, 1973, and 1977 sessions of the General Assembly; and

Whereas, during his service in the General Assembly, Thomas Bell Hunter was a member of numerous committees and commissions, serving as Chair of Commissions and Institutions for the Blind and Deaf and Vice-Chair of Insurance, Local Government, Mental Health, and Wildlife Resources; and

Whereas, Thomas Bell Hunter was active in the Methodist church and the Shriners; Now, therefore,

*Be it resolved by the House of Representatives, the Senate concurring:*

**SECTION 1.** The General Assembly honors the memory of Thomas Bell Hunter and expresses the appreciation of this State and its citizens for his life and service.

**SECTION 2.** The General Assembly wishes to extend its sympathy to the family and friends of Thomas Bell Hunter for the loss of a beloved family member and friend.

**SECTION 3.** The Secretary of State shall transmit a certified copy of this resolution to the family of Thomas Bell Hunter.

**SECTION 4.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 17<sup>th</sup> day of July, 2003.

**H.J.R. 231**

**Resolution 2003-25**

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF CHARLES BENNETT "C.B." DEANE, FORMER NORTH CAROLINA MEMBER OF CONGRESS.

Whereas, Charles Bennett "C.B." Deane was born on November 1, 1898, in Anson County, North Carolina; and

Whereas, C.B. Deane attended Pee Dee Academy in Rockingham and Trinity Park School in Durham, and received a law degree from Wake Forest College; and

Whereas, C.B. Deane was admitted to the North Carolina State Bar in 1923 and engaged in the practice of law in Rockingham from 1923 through 1926; and

Resolutions - 2003

Whereas, C.B. Deane served as Register of Deeds of Richmond County from 1926 to 1934 and as an attorney in the Wage and Hour Division, Department of Labor, in Washington, D.C., from 1938 through 1939; and

Whereas, C.B. Deane later worked in administrative law and insurance; and

Whereas, C.B. Deane served as Chair of the Richmond County Democratic Executive Committee from 1932 to 1946; and

Whereas, C.B. Deane was elected to Congress in 1946, serving with honor and distinction through 1956; and

Whereas, C.B. Deane lost his congressional seat after taking a courageous public stand in favor of racial desegregation and refusing to sign the "Southern Manifesto," a document signed by many Southern members of Congress criticizing the U.S. Supreme Court's decision in the landmark school desegregation case, Brown v. Board of Education; and

Whereas, C.B. Deane was active in his Baptist church and was in favor of Baptist colleges and universities admitting African-Americans as students; and

Whereas, C.B. Deane served as a trustee of Wake Forest University and Meredith College; and

Whereas, C.B. Deane served as an example and instilled the desire to serve the people of North Carolina and many others, including his son, Charles B. Deane, Jr., a former member of the State Senate and long-time member of the Richmond County Board of Education, and his grandson, Bennett Deane, current member of the Rockingham City Council; and

Whereas, C.B. Deane died on November 24, 1969; Now, therefore,

*Be it resolved by the House of Representatives, the Senate concurring:*

**SECTION 1.** The General Assembly honors the memory of Charles Bennett "C.B." Deane and expresses the gratitude and appreciation of this State and its citizens for his life and service.

**SECTION 2.** The General Assembly extends its sympathy to the family and friends of Charles Bennett "C.B." Deane for the loss of a beloved family member and friend.

**SECTION 3.** The Secretary of State shall transmit a certified copy of this resolution to the family of Charles Bennett "C.B." Deane.

**SECTION 4.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 17<sup>th</sup> day of July, 2003.

**S.J.R. 1022**

**Resolution 2003-26**

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF SAMUEL KOONCE, FORMER CIVIC LEADER.

Whereas, the citizens of Columbus County suffered a great loss in the death of Samuel Koonce, a devoted and lifelong servant of the community; and

Whereas, Samuel Koonce graduated from Chadbourn High School and earned a degree in pharmacy from the University of North Carolina at Chapel Hill; and

Whereas, Samuel Koonce was a second generation pharmacist and ran successful pharmacies in the Towns of Chadbourn and Tabor City; and

## Resolutions - 2003

Whereas, Samuel Koonce was politically active in his community, serving as a town council member and Mayor of the Town of Chadbourn; and

Whereas, Samuel Koonce served two terms on the Columbus County Board of Commissioners, one term of which was served as Chair of the Commission; and

Whereas, Samuel Koonce was a strong supporter of higher education and was a charter member of the Southeastern Community College Board of Trustees; and

Whereas, Samuel Koonce established a scholarship at Southeastern Community College in memory of his parents; and

Whereas, Samuel Koonce served for a number of years on the Chadbourn Board of Education and also served on the State Board of Health under Governor Terry Sanford; and

Whereas, Samuel Koonce proudly served his country during World War II, serving as a pilot for the United States Army; and

Whereas, Samuel Koonce made contributions to his community as a member of the Columbus County Library Board and was active in the Chadbourn Lions Club; and

Whereas, Samuel Koonce was a lifetime member of the Chadbourn United Methodist Church, serving several terms as Chair of the Administrative Board; and

Whereas, Samuel Koonce leaves to mourn his beloved wife, Sarah Williams Koonce; his children, Dr. Samuel G. Koonce, Harriette K. Sparlin, Sterling G. Koonce, and William E. Koonce; and his grandchildren, John Hiatt, Elliott Koonce, Sarah Beth Koonce, Lindsay Koonce, Jaclyn Koonce, Mary Grayson Koonce, and Elizabeth Koonce; Now, therefore,

*Be it resolved by the Senate, the House of Representatives concurring:*

**SECTION 1.** The General Assembly honors the memory of Samuel Koonce and expresses the gratitude and appreciation of this State and its citizens for his life and for service he rendered to his community and country.

**SECTION 2.** The General Assembly extends its deepest sympathy to the family and friends of Samuel Koonce.

**SECTION 3.** The Secretary of State shall transmit a certified copy of this resolution to the family of Samuel Koonce.

**SECTION 4.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 18<sup>th</sup> day of July, 2003.

**H.J.R. 1328**

**Resolution 2003-27**

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF REVERENDS ADOLPHEUS NUSSMAN AND JOHANN GOTTFRIED ARENDS ON THE 200<sup>TH</sup> ANNIVERSARY OF THE NORTH CAROLINA SYNOD OF THE EVANGELICAL LUTHERAN CHURCH IN AMERICA.

Whereas, on November 15, 2003, the North Carolina Synod of the Evangelical Lutheran Church in America will celebrate its 200<sup>th</sup> anniversary; and

Whereas, the North Carolina Synod is the second oldest Lutheran Synod in the United States; and



## Resolutions - 2003

Whereas, during the 1770s, German immigrants who had settled in the Piedmont area of North Carolina felt a need to have their own pastor and schoolteacher; and

Whereas, the German Lutheran Church sent Reverend Adolpheus Nussman and teacher Johann Gottfried Arends to North Carolina in 1773; and

Whereas, Johann Gottfried Arends, who was a graduate of the University of Goettingen, Germany, and also had theological training, came to North Carolina with an official letter of recommendation signed by King George III and became an ordained minister in 1775; and

Whereas, by 1783, Reverend Nussman was the pastor of three churches, each with a school, and the supervisor of 25 missions across North Carolina; and

Whereas, in 1803, the North Carolina Synod was organized to provide congregations with adequately prepared ministers; and

Whereas, the Reverend Arends organized or helped organize 19 congregations in Western North Carolina; and

Whereas, the Reverend Arends had helped organize the synod and was respected throughout the Lutheran Church in North Carolina; and

Whereas, the Reverend Arends was chosen and served as the synod's first president (a position currently referred to as 'bishop'); and

Whereas, in the early years, the synod struggled with the issues of slavery, German heritage and language, and the structure of worship, but the synod managed to prosper despite differences of opinion; and

Whereas, in the late 1800s, the synod began supporting higher education and foreign missions and allowing lay people, especially women, to take a more active role in the Lutheran church; and

Whereas, the Lutheran population had increased dramatically in North Carolina by the 1960s, allowing the synod to provide centralized programs, resources, training, advice, and other services to local ministries; and

Whereas, the synod has responded to the changing demographics of the State by developing policies to improve its outreach to African-Americans and Latinos; and

Whereas, the synod has grown from four pastors in 14 congregations to 455 leaders in 241 congregations; and

Whereas, it is only fitting to acknowledge the 200<sup>th</sup> anniversary of the North Carolina Synod of the Evangelical Lutheran Church in America; Now, therefore,

*Be it resolved by the House of Representatives, the Senate concurring:*

**SECTION 1.** The General Assembly honors the memory of the Reverend Adolpheus Nussman and the Reverend Johann Gottfried Arends for their roles in the development of the North Carolina Synod of the Evangelical Lutheran Church in America.

**SECTION 2.** The General Assembly extends its sincere congratulations to the North Carolina Synod of the Evangelical Lutheran Church in America on its 200<sup>th</sup> anniversary.

**SECTION 3.** The Secretary of State shall transmit a copy of this resolution to the Bishop of the North Carolina Synod of the Evangelical Lutheran Church in America.

**SECTION 4.** This resolution is effective upon adoption.

In the General Assembly read three times and ratified this the 18<sup>th</sup> day of July, 2003.

**H.J.R. 1338**

**Resolution 2003-28**

**A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF ALAN PRESTON NEELY, MINISTER AND COMMUNITY LEADER.**

Whereas, Alan Preston Neely, the son of Arthur Preston Neely and Effie Sargent Neely, was born November 3, 1928, in Little Rock, Arkansas, and was raised in Fort Worth, Texas; and

Whereas, Alan Neely earned a degree in English from Baylor University in Waco, Texas; a doctorate degree in Philosophy of Religion from the Southwestern Baptist Theological Seminary in Fort Worth, Texas; and a doctorate degree in Latin American Studies from American University in Washington, D.C.; and

Whereas, early in his career, Alan Neely served as a pastor in churches in Texas, Virginia, and Colorado; and

Whereas, in 1963, Alan Neely and his wife, Virginia, were appointed missionary teachers by the Southern Baptist Convention to the International Baptist Theological Seminary in Cali, Colombia, South America; and

Whereas, during his stay in South America, Alan Neely interacted with people of diverse faiths and cultures and developed a passion for bringing together people of different religions, which he continued throughout his life; and

Whereas, Alan Neely served as a professor of missions at the Southeastern Baptist Theological Seminary in Wake Forest, North Carolina, from 1976 to 1988; and

Whereas, Alan Neely taught ecumenics and missions at the Princeton Theological Seminary from 1988 until his retirement in 1996; and

Whereas, upon his retirement, Alan Neely moved to the City of Raleigh, where he became active in a number of community organizations and found time to write and teach; and

Whereas, Alan Neely was dedicated to the Baptist tradition and was one of the founders of the Alliance of Baptists, a national organization of progressive Baptists; and

Whereas, Alan Neely served as President of the Interfaith Alliance of Wake County for five years and was later named president emeritus; and

Whereas, Alan Neely was a founding board member of the North Carolina Martin Luther King Resource Center and was later named member emeritus; and

Whereas, Alan Neely was active in the Pullen Memorial Baptist Church, serving as a Sunday school teacher; and

Whereas, Alan Neely was well respected by his peers and members of his community; and

Whereas, Alan Neely died on May 14, 2003; and

Whereas, Alan Neely is survived by his wife Virginia Garrett Neely; two daughters, Jennifer Neely Wilkins and Elizabeth Neely Forsythe; a son, Roger Alan Neely; and four grandchildren; Now, therefore,

*Be it resolved by the House of Representatives, the Senate concurring:*

**SECTION 1.** The General Assembly honors the life and memory of Alan Preston Neely and expresses the appreciation of this State and its citizens for the service he rendered.

**SECTION 2.** The General Assembly expresses its deepest sympathy to the family and friends of Alan Preston Neely for the loss of a beloved family member.

**SECTION 3.** The Secretary of State shall transmit a certified copy of this resolution to the family of Alan Preston Neely.

**SECTION 4.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 18<sup>th</sup> day of July, 2003.

**S.J.R. 416**

**Resolution 2003-29**

A JOINT RESOLUTION SETTING THE DATE FOR THE SENATE AND THE HOUSE OF REPRESENTATIVES TO ELECT MEMBERS TO THE STATE BOARD OF COMMUNITY COLLEGES.

*Be it resolved by the Senate, the House of Representatives concurring:*

**SECTION 1.** Pursuant to G.S. 115D-2.1(b)(4)f., the Senate and the House of Representatives shall elect members to the State Board of Community Colleges during the regular sessions of the two chambers to be held on Saturday, July 19, 2003. At that time the Senate shall elect two members to the State Board for a term of six years beginning July 1, 2003. The House of Representatives also shall elect two members to the State Board for a term of six years beginning July 1, 2003.

**SECTION 2.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 19<sup>th</sup> day of July, 2003.

**S.J.R. 327**

**Resolution 2003-30**

A JOINT RESOLUTION PROVIDING FOR CONFIRMATION OF THE APPOINTMENT OF JOSEPH A. SMITH, JR. AS COMMISSIONER OF BANKS.

Whereas, under provisions of G.S. 53-92, appointment by the Governor of the Commissioner of Banks is subject to confirmation by the General Assembly by joint resolution; and

Whereas, the term of the present Commissioner of Banks will end on March 31, 2003; and

Whereas, the Governor has submitted to the presiding officers of the House of Representatives and the Senate the name of his appointee to fill the term of Commissioner of Banks which will begin April 1, 2003, and expire March 31, 2007; Now, therefore,

*Be it resolved by the Senate, the House of Representatives concurring:*

**SECTION 1.** The appointment of Joseph A. Smith, Jr. as Commissioner of Banks for a term expiring March 31, 2007, is confirmed.

**SECTION 2.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 19<sup>th</sup> day of July, 2003.

**H.J.R. 1335**

**Resolution 2003-31**

A JOINT RESOLUTION SETTING THE TIME FOR ADJOURNMENT OF THE 2003 GENERAL ASSEMBLY TO MEET IN 2003 AND 2004 AND LIMITING THE SUBJECTS THAT MAY BE CONSIDERED IN THOSE SESSIONS.

*Be it resolved by the House of Representatives, the Senate concurring:*

**SECTION 1.** When the Senate and House of Representatives adjourn on Sunday, July 20, 2003, the Senate shall adjourn to reconvene at 12:00 noon on Monday, September 15, 2003, and the House of Representatives shall adjourn to reconvene at 12:00 noon on Monday, May 10, 2004. During the session of the Senate beginning September 15, 2003, as provided in this section and adjourning again no later than September 19, 2003, as provided by Section 2 of this act, only the following matters may be considered:

- (1) Economic Development Legislation.
- (2) Civil Justice and Insurance Reform Legislation.

**SECTION 2.** When it adjourns on Friday, September 19, 2003, the Senate shall adjourn to reconvene at 12:00 noon on Monday, May 10, 2004, except that the adjournment may be on a date earlier than September 19, 2003, if so specified in the adjournment motion.

**SECTION 3.** During the regular session that reconvenes on Monday, May 10, 2004, only the following matters may be considered:

- (1) Bills directly and primarily affecting the State budget, including the budget of an occupational licensing board, for fiscal year 2004-2005, provided that the bill must be submitted to the Bill Drafting Division of the Legislative Services Office no later than 4:00 P.M. Thursday, May 20, 2004, and must be introduced in the House of Representatives or filed for introduction in the Senate no later than 4:00 P.M. Thursday, May 27, 2004.
- (2) Bills and resolutions introduced in 2003 and having passed third reading in 2003 in the house in which introduced, received in the other house in accordance with Senate Rule 41 or House Rule 31.1(d) as appropriate, and not disposed of in the other house by tabling, unfavorable committee report, indefinite postponement, or failure to pass any reading, and which do not violate the rules of the receiving house.
- (3) Bills and resolutions implementing the recommendations of:
  - a. Study commissions, authorities, and statutory commissions authorized or directed to report to the 2004 Session;
  - b. The General Statutes Commission, the Courts Commission, or any commission created under Chapter 120 of the General Statutes that is authorized or directed to report to the General Assembly;
  - c. The House Ethics Committee;
  - d. Select committees; or
  - e. The Joint Legislative Ethics Committee or its Advisory Subcommittee.

A bill authorized by this subdivision must be submitted to the Bill Drafting Division of the Legislative Services Office no later than

## Resolutions - 2003

4:00 P.M. Wednesday, May 12, 2004, and must be filed for introduction in the Senate or introduced in the House of Representatives no later than 4:00 P.M. Wednesday, May 19, 2004.

- (4) Any local bill that has been submitted to the Bill Drafting Division of the Legislative Services Office by 4:00 P.M. Wednesday, May 19, 2004, is introduced in the House of Representatives or filed for introduction in the Senate by 4:00 P.M. Wednesday, May 26, 2004, and is accompanied by a certificate signed by the principal sponsor stating that no public hearing will be required or asked for by a member on the bill, the bill is noncontroversial, and that the bill is approved for introduction by each member of the House of Representatives and Senate whose district includes the area to which the bill applies.
- (5) Selection, appointment, or confirmation of members of State boards and commissions as required by law, including the filling of vacancies of positions for which the appointees were elected by the General Assembly upon recommendation of the Speaker of the House of Representatives, President of the Senate, or President Pro Tempore of the Senate.
- (6) Any matter authorized by joint resolution passed during the 2004 Regular Session by a two-thirds majority of the members of the House of Representatives present and voting and by a two-thirds majority of the members of the Senate present and voting. A bill or resolution filed in either house under the provisions of this subdivision shall have a copy of the ratified enabling resolution attached to the jacket before filing for introduction in the Senate or introduction in the House of Representatives.
- (7) A joint resolution authorizing the introduction of a bill pursuant to subdivision (6) of this section.
- (8) Any bills primarily affecting any State or local pension or retirement system, provided that the bill has been submitted to the Bill Drafting Division of the Legislative Services Office no later than 4:00 P.M. Wednesday, May 19, 2004, and is introduced in the House of Representatives or filed for introduction in the Senate no later than 4:00 P.M. Wednesday, May 26, 2004.
- (9) Joint resolutions, House resolutions, and Senate resolutions pertaining to Section 5(10) of Article III of the Constitution of North Carolina or authorized for introduction under Senate Rule 40(b) or House Rule 31(g).
- (10) A joint resolution adjourning the 2003 Regular Session, sine die.
- (11) Bills to disapprove rules under G.S. 150B-21.3.
- (12) Constitutional amendments.

**SECTION 4.** A bill containing no substantive provisions may not be introduced in the House of Representatives during the 2004 Regular Session.

**SECTION 5.** The Speaker of the House of Representatives or the President Pro Tempore of the Senate may authorize appropriate committees or subcommittees of their respective houses to meet during the interims between sessions to:

## Resolutions - 2003

- (1) Review matters related to the State budget for the 2003-2005 biennium,
- (2) Prepare reports, including revised budgets, or
- (3) Consider any other matters as the Speaker of the House of Representatives or the President Pro Tempore of the Senate deems appropriate,

except that no committee or subcommittee of a house may consider, after the date of adjournment provided in Section 1 of this resolution and before the date of reconvening provided in Section 2 of this resolution, any bill, or proposed committee substitute for such bill, which originated in the other house. A conference committee may meet in the interim upon approval by the Speaker of the House of Representatives or the President Pro Tempore of the Senate.

**SECTION 6.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 20<sup>th</sup> day of July, 2003.

**S.J.R. 1030**

**Resolution 2003-32**

A JOINT RESOLUTION ADJOURNING THE RECONVENED SESSION.

*Be it resolved by the Senate, the House of Representatives concurring:*

**SECTION 1.** In accordance with Resolution 2003-31, when they adjourn on Wednesday, August 27, 2003, the Senate and the House of Representatives, constituting the Reconvened 2003 Session of the General Assembly, do stand adjourned as follows:

- (1) The Senate to reconvene at 12:00 noon on Monday, September 15, 2003; and
- (2) The House of Representatives to reconvene at 12:00 noon on Monday, May 10, 2004.

**SECTION 2.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 27<sup>th</sup> day of August, 2003.

**RESOLUTIONS**  
**OF THE**  
**STATE OF NORTH CAROLINA**

---

**EXTRA SESSION 2003**

---

**H.J.R. 7**

**Resolution 2003-33**

**2003 Extra Session**

A JOINT RESOLUTION PROVIDING FOR ADJOURNMENT SINE DIE OF THE  
2003 EXTRA SESSION.

*Be it resolved by the House of Representatives, the Senate concurring:*

**SECTION 1.** When the House of Representatives and the Senate, constituting the 2003 Extra Session of the 2003 General Assembly, do adjourn on Tuesday, November 25, 2003, they stand adjourned sine die.

**SECTION 2.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 25<sup>th</sup> day of November, 2003.





**RESOLUTIONS**  
**OF THE**  
**STATE OF NORTH CAROLINA**

---

**SECOND EXTRA SESSION 2003**

---

**S.J.R. 5**

**Resolution 2003-34**

**Second Extra Session**

A JOINT RESOLUTION PROVIDING FOR ADJOURNMENT SINE DIE OF THE  
2003 SECOND EXTRA SESSION.

*Be it resolved by the Senate, the House of Representatives concurring:*

**SECTION 1.** When the Senate and the House of Representatives,  
constituting the 2003 Second Extra Session of the General Assembly, do adjourn on  
Wednesday, December 10, 2003, they stand adjourned sine die.

**SECTION 2.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 10<sup>th</sup> day of  
December, 2003.



**EXECUTIVE ORDERS  
OF  
GOVERNOR MICHAEL F. EASLEY**

<b>Title</b>	<b>Number</b>
EXTENDING EXECUTIVE ORDER NO. 29 .....	37
EXTENDING EX[E]CUTIVE ORDER NO. 88 .....	38
IMPLEMENTATION OF THE NORTH CAROLINA EMERGENCY OPERATIONS PLAN DATED NOVEMBER 2002 .....	39
NORTH CAROLINA EMERGENCY RESPONSE COMMISSION .....	40
SUSPENSION OF RULES AND REGULATIONS LIMITING THE HOURS OPERATORS OF COMMERCIAL VEHICLES MAY DRIVE .....	41
EXTENDING EX[E]CUTIVE ORDER NO. 41 .....	42
ESTABLISHMENT OF STATEWIDE CITIZEN CORPS COUNCIL .....	43
EXTENDING REGISTRATION OF CERTAIN VEHICLES .....	44
WAIVER OF THE RULES AND REGULATIONS LIMITING THE HOURS OF OPERATORS OF CERTAIN [COMMERCIAL] VEHICLES AND THE WEIGHT RESTRICTIONS ON CERTAIN VEHICLES .....	45
IMMEDIATE ELIGIBILITY FOR UNEMPLOYMENT BENEFITS IN WAKE OF MAJOR INDUSTRIAL DISASTER IN LENOIR COUNTY .....	46
WAIVER OF THE RULES AND REGULATIONS LIMITING THE HOURS OF OPERATORS OF CERTAIN [COMMERCIAL] VEHICLES AND THE WEIGHT RESTRICTIONS ON CERTAIN VEHICLES .....	47
JUVENILE JUSTICE PLANNING COMMITTEE .....	48
PROCLAMATION OF STATE OF DISASTER FOR THE CITY OF EDEN .....	49
AMENDING EXECUTIVE ORDER NO. 32 NC COMMISSION ON BUSINESS LAWS AND THE ECONOMY .....	50
EXTENDING EX[E]CUTIVE ORDER NO. 1 .....	51
FOOD SAFETY AND SECURITY TASK FORCE .....	52
EMERGENCY RELIEF FOR DAMAGE CAUSED BY HURRICANE ISABEL .....	53



# State of North Carolina



MICHAEL F. EASLEY  
GOVERNOR

## EXECUTIVE ORDER NO. 37 EXTENDING EXECUTIVE ORDER NO. 29

By the power vested in me as Governor by the Constitution and laws of the State of North Carolina, IT IS ORDERED:

Executive Order No. 29, providing Emergency Relief for Livestock Producers Affected by Hay Shortages Due to Drought for 60-days after its original expiration date.

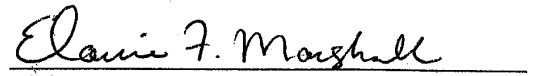
Executive Order No. 29 will now be effective until January 31, 2003.

Done in Raleigh, North Carolina, this the 26<sup>th</sup> day of November, 2002.



  
Michael F. Easley  
Governor

ATTEST:

  
Elaine F. Marshall  
Secretary of State  
*Raymond H. Boyce*  
*Rodney M. Dyer*  
*Chief Deputy Secretary*

# State of North Carolina



MICHAEL F. EASLEY  
GOVERNOR

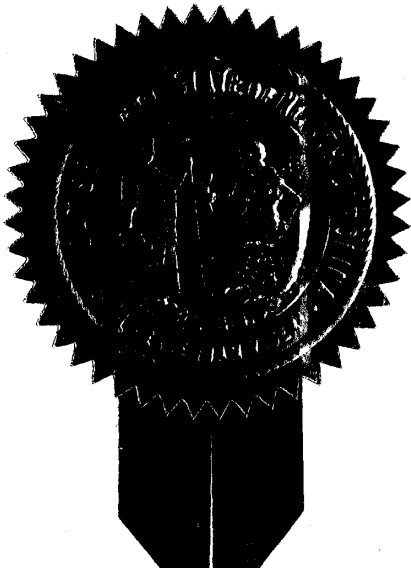
## EXECUTIVE ORDER NO. 38 EXTENDING EXECUTIVE ORDER NO. 88

By the power vested in me as Governor by the Constitution and laws of the State of North Carolina, IT IS ORDERED:

Executive Order No. 88 regarding the Statewide Flexible Benefits Program, as previously amended, hereby is extended.

This order is effective immediately.

Done in the Capitol City of Raleigh, North Carolina, this 27<sup>th</sup> day of December 2002.



*Mike Easley*  
MICHAEL F. EASLEY  
GOVERNOR

ATTEST:

*Elaine F. Marshall*  
ELAINE F. MARSHALL *by and through*  
SECRETARY OF STATE *R. Modder*  
*Chief Deputy Secretary*

# State of North Carolina



MICHAEL F. EASLEY  
GOVERNOR

EXECUTIVE ORDER NO. 39  
IMPLEMENTATION OF THE  
NORTH CAROLINA EMERGENCY OPERATIONS PLAN  
DATED NOVEMBER 2002

WHEREAS, the North Carolina Emergency Management Act (Chapter 166A of the North Carolina General Statutes, N.C.G.S. §166A-5(1)a.6) permits the use of services, equipment, supplies and facilities of existing departments, offices and agencies of the State; and

WHEREAS, the North Carolina Emergency Management Act (Chapter 166A of the North Carolina General Statutes) requires the officers and personnel of all such departments, offices, and agencies to cooperate with and extend such services and facilities upon request; and

WHEREAS, the authority to take such actions extends to emergency management and planning purposes; and

WHEREAS, the functions of the State emergency management program include preparation and maintenance of State plans for disasters and the state plans or any parts thereof may be incorporated into executive orders of the Governor; and

WHEREAS, to facilitate a coordinated, effective relief and recovery effort among state and local government entities and agencies, this order is executed.

NOW, THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and laws of North Carolina, IT IS ORDERED:

Section 1. All state and local government entities and agencies are requested to cooperate in the implementation of the provisions of the North Carolina Emergency Operations Plan (NCEOP) dated November 2002.

Section 2. I hereby delegate to the Secretary of the North Carolina Department of Crime Control and Public Safety, and/or the Secretary's designee, all power and authority granted to me and required of me by Chapter 166A, and Article 36A of Chapter 14 of the General Statutes for the purposes of implementing the said Emergency Operations Plan.

Section 3. The Secretary of the North Carolina Department of Crime Control and Public Safety shall make necessary changes to the North Carolina Emergency Operations Plan with appropriate coordination and shall similarly promulgate additional annexes and appendices as required.

Section 4. The Secretary of the North Carolina Department of Crime Control and Public Safety, as chief coordinating officer for the State of North Carolina, shall exercise the powers prescribed in G.S. §143B-476.

Section 5. This executive order is effective immediately and shall remain in effect until rescinded.

Done in the Capital City of Raleigh, North Carolina, this the 9th day of January 2003.



*Michael F. Easley*  
Michael F. Easley  
Governor

ATTEST:

*Elaine F. Marshall*  
Elaine F. Marshall  
Secretary of State



# State of North Carolina



MICHAEL F. EASLEY  
GOVERNOR

## EXECUTIVE ORDER NO. 40 NORTH CAROLINA EMERGENCY RESPONSE COMMISSION

By the authority vested in me as Governor by the Constitution and laws of the State of North Carolina, IT IS ORDERED:

### Section 1.    Creation

There is hereby created the North Carolina Emergency Response Commission, hereinafter referred to as the "Commission." The Commission shall consist of not less than twelve members and shall be composed of at least the following persons:

- a.     Secretary, North Carolina Department of Crime Control and Public Safety, who shall serve as the Chairperson.
- b.     Director, Division of Emergency Management, North Carolina Department of Crime Control and Public Safety, who shall serve as the Vice-Chairperson.
- c.     Commander, State Highway Patrol, North Carolina Department of Crime Control and Public Safety.
- d.     Deputy Secretary, North Carolina Department of Environment and Natural Resources.
- e.     Director, Division of Safety and Loss Control, North Carolina Department of Transportation.
- f.     Chief, Office of Emergency Medical Services, Division of Facility Services, North Carolina Department of Health and Human Services.

g. Deputy Director, Training and Inspections Division, Office of State Fire Marshal, North Carolina Department of Insurance.

h. Director, State Bureau of Investigation, North Carolina Department of Justice.

i. Director, Division of Public Health, North Carolina Department of Health and Human Services.

j. Assistant Deputy Commissioner of Labor for Occupational Safety and Health, North Carolina Department of Labor.

k. President, North Carolina Community College System.

l. Director, Emergency Programs Division, North Carolina Department of Agriculture and Consumer Services.

In addition to the foregoing, six at-large members from local government and private industry may be appointed by the Governor and serve terms of two (2) years at the pleasure of the Governor.

#### Section 2. Duties

The Commission is designated as the State Emergency Response Commission as described in the Emergency Planning and Community Right-to-Know Act of 1986 as enacted by the United States Congress (hereinafter, the "Act") and shall perform all duties required of it under the Act, including, but not limited to, the following:

a. Appoint local emergency planning committees described under Section 301(c) of the Act and supervise and coordinate the activities of such committees.

b. Establish procedures for reviewing and processing requests from the public for information under Section 324 of the Act.

c. Designate emergency planning districts to facilitate preparation and implementation of emergency plans as required under Section 301(b) of the Act.

d. Designate additional facilities that may be subject to the Act under Section 302 of the Act.

e. Notify the Administrator of the Environmental Protection Agency of facilities subject to the requirements of Section 302 of the Act.

f. Review the emergency plans submitted by local emergency planning committees and make recommendations to the committees on revisions of the plans that may be necessary to ensure coordination of such plans with emergency response plans of other emergency planning districts.

g. Review plans for preventing, preparing, responding, and recovering from acts of terrorism.

Section 3. Administration

a. The Department of Crime Control and Public Safety shall provide administrative support and staff as may be required.

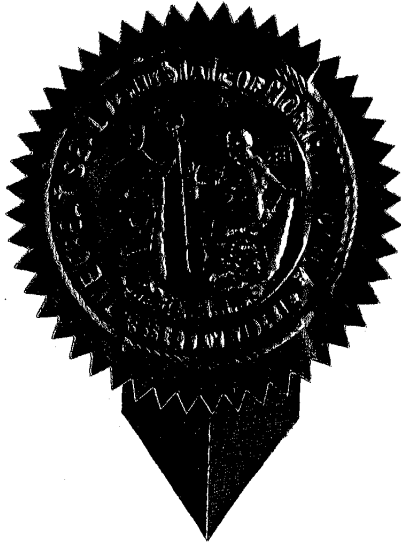
b. Members of the Commission shall serve without compensation but may receive reimbursement for travel and subsistence expenses in accordance with state guidelines and procedures and contingent on the availability of funds.

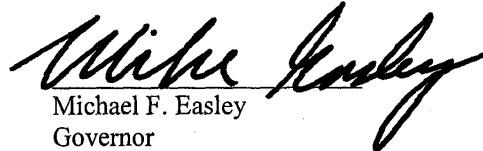
Section 4. Effect on other Executive Orders

Executive Order 125 is hereby rescinded. All other portions of Executive Orders inconsistent herewith also are rescinded.

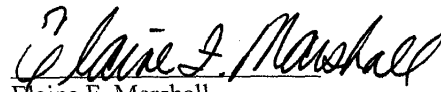
This Executive Order is effective immediately and shall remain in effect until rescinded by the Governor.

Done in the Capital City of Raleigh, North Carolina this the 21<sup>st</sup> day of January, 2003.



  
Michael F. Easley  
Governor

ATTEST:

  
Elaine F. Marshall  
Secretary of State

# State of North Carolina



**MICHAEL F. EASLEY**  
GOVERNOR

## EXECUTIVE ORDER NO. 41 SUSPENSION OF RULES AND REGULATIONS LIMITING THE HOURS OPERATORS OF COMMERCIAL VEHICLES MAY DRIVE

WHEREAS, the North Carolina Emergency Management Act (Chapter 166A of the North Carolina General Statutes) authorizes and empowers the Governor to make, amend or rescind the necessary orders, rules and regulations within the limits of the authority conferred upon him, with due consideration of the policies of the federal government.

WHEREAS, the North Carolina Emergency Management Act (Chapter 166A of the North Carolina General Statutes) authorizes and empowers the Governor to deliver materials or perform services for disaster purposes on such terms and conditions as may be prescribed by any existing law; and

WHEREAS, the North Carolina Emergency Management Act (Chapter 166A of the North Carolina General Statutes) authorizes the Governor, with the concurrence of the Council of State, to procure, transport, store, maintain or distribute materials for emergency management without regard to the limitation of any existing law; and

WHEREAS, the uninterrupted supply of Liquefied Petroleum Gas (propane), kerosene and fuel oil to residential and commercial establishments is an essential need of the public during the winter and any interruption threatens the public welfare; and

WHEREAS, the continued period of cold weather has increased the demand for Liquefied Petroleum Gas, kerosene and fuel oil and threatened the uninterrupted delivery of Liquefied Petroleum Gas, kerosene and fuel oil to residential and commercial customers; and

WHEREAS, the Federal Motor Carrier Safety regulations, 49 CFR 390 through 399, limit the hours operators of commercial vehicles may drive; and

WHEREAS, 49 CFR 390.23 allows the Governor to suspend the rules and regulations limiting the hours operators of commercial vehicles may drive for the duration of the motor carrier's or driver's direct assistance in providing emergency relief, or thirty (30) days from the date of the initial declaration of the emergency, whichever is less, if the Governor declares a state of emergency.

NOW, THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and laws of the State of North Carolina, IT IS ORDERED:

Section 1. Carriers transporting Liquefied Petroleum gas, kerosene and fuel oil hereby are exempted from the provisions from Parts 390 through 399 of Title 49 of the Code of Federal Regulations as authorized by federal law.

Section 2. This exemption does not apply to carriers transporting gasoline or diesel fuel for highway use.

Section 3. This emergency shall not exceed the duration of the motor carrier's or driver's direct assistance in providing emergency relief.

Section 4. This executive order is effective immediately, and shall remain in effect until 5:00 p.m. Monday, January 27, 2003.

Done in the Capitol City of Raleigh, North Carolina, this the 24<sup>th</sup> day of January, 2003.



*Mike Easley*  
\_\_\_\_\_  
Michael F. Easley  
Governor

ATTEST:

*Elaine F. Marshall*  
\_\_\_\_\_  
Elaine F. Marshall  
Secretary of State

# State of North Carolina



MICHAEL F. EASLEY  
GOVERNOR

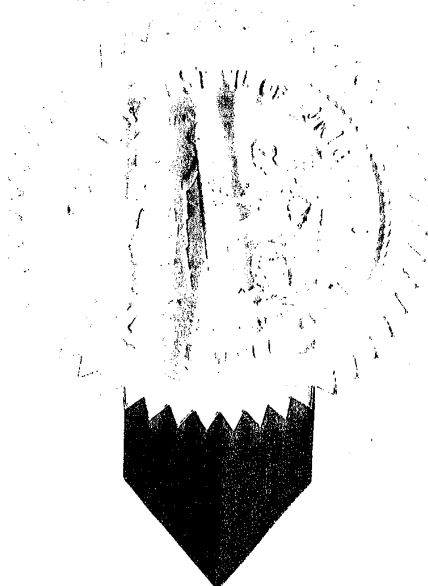
## EXECUTIVE ORDER NO. 42 EXTENDING EXECUTIVE ORDER NO. 41

By the power vested in me as Governor by the Constitution and laws of the State of North Carolina, IT IS ORDERED:

Executive Order No. 41 regarding Suspension of Rules and Regulations Limiting the Hours Operators of Commercial Vehicles May Drive is hereby extended until February 3, 2003.

This order is effective immediately.

Done in the Capitol City of Raleigh, North Carolina, this 27<sup>th</sup> day of January 2003.

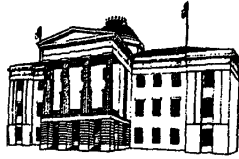


  
MICHAEL F. EASLEY  
GOVERNOR

ATTEST:

  
ELAINE F. MARSHALL  
SECRETARY OF STATE

# State of North Carolina



**MICHAEL F. EASLEY**  
GOVERNOR

## EXECUTIVE ORDER NO. 43 ESTABLISHMENT OF STATEWIDE CITIZEN CORPS COUNCIL

WHEREAS, this Administration continues to be committed to encouraging all people, organizations, agencies, businesses, faith groups, and institutions in North Carolina to help solve our most critical problems by volunteering their time, effort, energy and service in times of prosperity as well as in emergencies or disasters; and

WHEREAS, the need for homeland security, community health and public safety have increased and have led to the need to call upon the compassion and spirit of all people in North Carolina to help solve many of the problems facing their communities; and

WHEREAS, it is the standing reputation of this Administration to discover and to encourage new community service leaders, to promote individuals, organizations, and institutions that serve as outstanding examples of a commitment to serving others, and to convince all people in North Carolina that a successful life includes serving others; and

WHEREAS, significant issues facing the nation and state continue to be addressed by the collaborative efforts of committed people volunteering their time and talents through volunteer centers, national service programs, schools, community organizations, government agencies, businesses, labor groups, and a host of other community and state efforts, and

WHEREAS, North Carolina has established a comprehensive, intricate and effective community-based and community-driven infrastructure for state-sponsored national and community service through the North Carolina Commission on Volunteerism and Community Service and its public-and private-sector partnering organizations; and

WHEREAS, the North Carolina Department of Crime Control and Public Safety has established a comprehensive, intricate and effective Division of Emergency Management with a state and local infrastructure committed to enhancing the quality of life in North Carolina by assisting people to effectively prepare for, respond to, recover from, and mitigate against all hazards and disasters; and

WHEREAS, the North Carolina Commission on Volunteerism and Community Service and the North Carolina Department of Crime Control and Public are partnering agencies in Citizen Corps in North Carolina;

NOW, THEREFORE, by the authority vested in me as Governor by the Constitution and laws of North Carolina, IT IS ORDERED:

Section 1. Definitions

A. "North Carolina Citizen Corps" means the North Carolina initiative created under the federal USA Freedom Corps program.

B. "North Carolina Citizen Corps Council" ("Council") means the body created within the Office of the Governor that will foster collaboration.

C. "North Carolina Commission on Volunteerism and Community Service" (Commission") means the entity established by Executive Order # 48 issued by Governor James B. Hunt on 12 May 1994.



D. "USA Freedom Corps" means the federal interagency initiative created under the terms of Executive Order 13254 of January 29, 2002, (67 CFT 4869) and the Citizen Service Act of 2002, a legislative proposal submitted to the United States Congress by President George W. Bush.

Section 2. North Carolina Citizen Corps Council

A. Consistent with the provisions of Executive Order 13254 and any act of Congress enacted to implement Executive Order 13254, the North Carolina Citizen Corps Council is created as a body that will foster collaboration in a statewide volunteer effort focused on homeland security, disaster preparedness and response, public health, and public safety.

B. The Council is not intended as an advisory or governing body, nor to set state policy.

C. The Council shall consist of the leadership of appropriate collaborative organizations and/or agencies necessary to promote volunteerism focused on homeland security, disaster preparation and response, public health and public safety by promoting Citizen Corps programs and activities.

D. Members of the Council shall serve by invitation of the Governor of the State of North Carolina.

E. When there is a change in leadership of a Council member organization/ agency, the new leadership of the organization/agency will become a replacement member of the Council.

Section 3. Activities of the Council

A. The Council shall identify opportunities for local, tribal and state organizations to collaborate to accomplish the shared goals of the Citizen Corps programs.

B. The Council shall assist with the establishment of an implementation plan to develop and support local Citizen Corps Councils.

C. The Council shall assist in the development of initiatives to promote public awareness and community service in coordination with existing Citizen Corps programs including, but not limited to, Volunteers in Police Service, Neighborhood Watch, Medical Reserve Corps, and Community Emergency Response Teams.

D. The Council shall develop and disseminate messages on safety and emergency preparedness that will be effective in engaging communities and individuals in Citizen Corps.

E. The Council shall serve as a catalyst for engaging others within their areas of expertise to promote the Citizen Corps mission and programs.

F. The Council shall promote the USA Freedom Corps initiative in North Carolina.

#### Section 4. Operations of the Council

A. The Governor shall designate one (1) member of the Council to serve as Chairperson.

B. The Council may promulgate bylaws, not inconsistent with law and with this Order, governing its organization, operation and procedure.

C. Members of the Council may delegate their membership responsibility to a designee only if the designee has authoritative powers to act on behalf of, and made decisions for, the organization/agency.

D. A majority of the serving members constitutes a quorum for the transaction of business at a meeting. The Council shall act by a majority vote of its serving members.

E. The Council shall meet at the call of the Chairperson and as may be provided in the bylaws of the Council. Meetings of the Council may be held at any location within the State

of North Carolina. The Council shall meet at least once per quarter year. Meetings may be in person or via conference call.

F. The Council may establish committees, subcommittees, and ad hoc committees as appropriate to ensure the success of Citizen Corps in North Carolina.

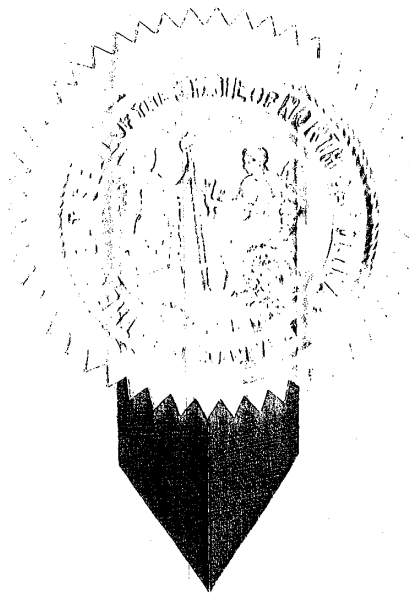
G. Members of the Council shall serve without compensation. Members of the Council may receive reimbursement for necessary travel and related travel expenses according to relevant statutes, rules, and procedures of the North Carolina Office of Management and Budget.

H. The Council shall be staffed by the Director of Citizen Corps in North Carolina (the Deputy Executive Director of the Commission).

I. Subject to applicable laws, the Council may receive monies from any source, public or private, including but not limited to, gifts, grants, donations of monies and government appropriations. These monies will be managed by the Director of Citizen Corps.

This Order is effective immediately.

Done in Raleigh, North Carolina, this 30<sup>th</sup> day of January, 2003.

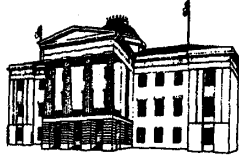


*Mike Royster*  
Governor

ATTEST:

*Elaine F. Marshall*  
Elaine F. Marshall by *Rooney Madole*  
Secretary of State *Chief Deputy*  
*Secretary of State*

# State of North Carolina



MICHAEL F. EASLEY  
GOVERNOR

## EXECUTIVE ORDER NUMBER 44 EXTENDING REGISTRATION OF CERTAIN VEHICLES

By the authority vested in me as Governor by the Constitution and laws of North Carolina, IT IS ORDERED:

The vehicle registrations of those vehicles with special registration plates issued, pursuant to N.C.G.S § 20-79.4(b)(22), to members of the North Carolina General Assembly are hereby extended for thirty days from expiration.

This Order is effective immediately.

Done in Raleigh, North Carolina, this 11th day of February, 2003



*Mike Easley*  
MICHAEL F. EASLEY  
GOVERNOR

ATTEST:

*Elaine F. Marshall*  
ELAINE F. MARSHALL *by Roxie Madole*  
SECRETARY OF STATE *Chief Deputy*

# State of North Carolina



**MICHAEL F. EASLEY**  
GOVERNOR

EXECUTIVE ORDER NO. 45  
WAIVER OF THE RULES AND REGULATIONS LIMITING THE HOURS OF  
OPERATORS OF CERTAIN COMMERCIAL VEHICLES AND  
THE WEIGHT RESTRICTIONS ON CERTAIN VEHICLES

WHEREAS, the North Carolina Emergency Management Act (Chapter 166A of the North Carolina General Statutes) authorizes and empowers the Governor to make, amend or rescind the necessary orders, rules and regulations within the limits of the authority conferred upon him, with due consideration of the policies of the federal government; and

WHEREAS, the North Carolina Emergency Management Act (Chapter 166A of the North Carolina General Statutes) authorizes and empowers the Governor to deliver materials or perform services for disaster purposes on such terms and conditions as may be prescribed by any existing law; and

WHEREAS, the North Carolina Emergency Management Act (Chapter 166A of the North Carolina General Statutes) authorizes the Governor, with the concurrence of the Council of State, to procure, transport, store, maintain or distribute materials; and

WHEREAS, the rapid restoration of electrical power is an essential need of the public during the winter and any interruptions threatens the public welfare; and

WHEREAS, the Federal Motor Carrier Safety regulations, 49 CFR 350, limits the hours operators of commercial vehicles may drive; and

WHEREAS, 49 CFR 395 allows the Governor to suspend the rules and regulations limiting the hours operators of commercial vehicles may drive for the duration of the motor carrier's or driver's direct assistance in providing emergency relief, or thirty (30) days from the date of the initial declaration of the emergency, whichever is less, if the Governor declares a state of emergency.

NOW, THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and laws of the State of North Carolina, IT IS ORDERED:

Section 1. The regulations under 49 C.F.R. 395 (Federal Motor Carrier Safety Regulations) as it relates to driver's hours of service are waived for 30 days or the duration of the emergency, whichever is less.

Section 2. For a period of 30 days or the duration of the emergency, whichever is less, vehicles of the type used in power restoration shall be exempt from going through North Carolina weigh station as prescribed in N.C.G.S. 21-118.1.

Section 3. The State Highway Patrol to waive size and weight restrictions and penalties therefore arising under N.C.G.S. 20-88 and N.C.G.S. 20-118, and certain registration requirements and penalties therefore arising under N.C.G.S. 20.86.1, 20-382, 105-449.47, 105-449.49 for vehicles transporting equipment and supplies to restore utilities in the State of North Carolina.

Section 4. Notwithstanding the waivers set forth above, size and weight restrictions and penalties shall not be waived under the following conditions:

(A) When the vehicle weight exceeds the maximum gross vehicle weight criteria established by the manufacturer (GVWR) or 90,000 pounds gross vehicle weight, whichever is less.

(B) When tandem axle weights exceed 42,000 pounds and single axle weights exceed 22,000 pounds.

(C) When vehicle/vehicle combination exceeds 12 feet in width and a total overall combination vehicle length of 65 feet from bumper to bumper.

Section 5. Vehicles referenced under Section 3 shall be exempt from the following registration requirements:

(A) The \$50.00 fee listed in N.C.G.S. 105-449.49 for a temporary trip permit is waived for the vehicles described above. No quarterly fuel tax is required because the exception in N.C.G.S. 105-449.45(a)(1) applies.

(B) The registration requirement under N.C.G.S. 20-382 concerning intrastate and interstate for-hire authority; however, vehicles shall maintain the required limits of insurance.

(C) Non-participants in North Carolina's International Registration Plan will be permitted into North Carolina in accordance with the spirit of the exemptions identified by this Proclamation.

Section 6. The size and weight exemptions for the vehicles will be allowed on all routes designated by the North Carolina Department of Transportation, except those routes designated as light traffic roads under N.C.G.S. 20-118. This order shall not be in effect on bridges posted pursuant to N.C.G.S. 136-72.

Section 7. Upon request, exempted vehicles will be required to produce identification sufficient to establish that its load will be used for emergency relief efforts in the State of North Carolina.

Section 8. The State Highway Patrol shall enforce the conditions set forth in Sections 1, 2, 3, 4, 6, and 7 in a manner, which would best accomplish the implementation of these waivers without endangering motorists in North Carolina.

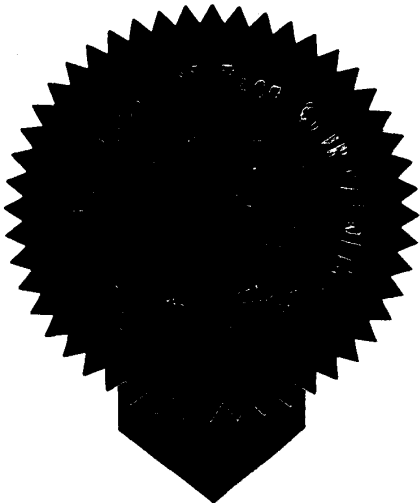
Section 9. This Executive Order shall become effective immediately.

Section 5. Further, Bryan E. Beatty, Secretary of Crime Control and Public Safety, as chief coordinating officer for the State of North Carolina, shall exercise the powers prescribed in G. S. 143B-476.

Section 6. I hereby order this proclamation: (a) to be distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (b) unless the circumstances of the state of emergency or threatened disaster prevent or impede, to be promptly filed with the Secretary of Crime Control and Public Safety, the Secretary of State, and the clerks of superior court in the counties to which it applies; and (c) to be distributed to others as necessary to assure proper implementation of this proclamation.

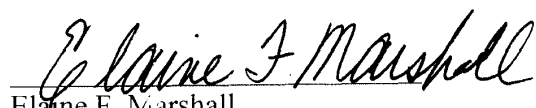
Section 7. This proclamation shall become effective immediately.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of North Carolina at the Capitol in Raleigh this the sixteenth day of February in the year two thousand and three.



  
Michael F. Easley  
Governor

ATTEST:

  
Elaine F. Marshall  
Secretary of State



# State of North Carolina



MICHAEL F. EASLEY  
GOVERNOR

## EXECUTIVE ORDER NO. 46 IMMEDIATE ELIGIBILITY FOR UNEMPLOYMENT BENEFITS IN WAKE OF MAJOR INDUSTRIAL DISASTER IN LENOIR COUNTY

WHEREAS, on January 29, 2003, a major industrial disaster occurred in Lenoir County at the facility of West Pharmaceutical Services that substantially destroyed all of the physical facilities of the West Pharmaceutical Services plant; and,

WHEREAS, employment compensation for the employees of West Pharmaceutical Services will end on February 28, 2003; and,

WHEREAS, I have created a task force to coordinate state assistance to West Pharmaceutical Services and its employees,

NOW THEREFORE, as part of the assistance effort, I hereby direct and authorize the Employment Security Commission to waive the "waiting week" provided for in N.C.G.S. § 96-13(c), for the receipt of unemployment insurance benefits for employees affected by this major industrial disaster, and hereby direct and authorize the Chairman of the Employment Security Commission to implement regulations prescribing the procedure for the waiver of the waiting week in accordance with N.C.G.S. § 96-4(b).

This Executive Order is intended to, and does, satisfy the third condition set forth in the amendments to N.C.G.S. § 96-13, approved by the General Assembly in February 2003 in the wake of the West Pharmaceutical Services disaster.

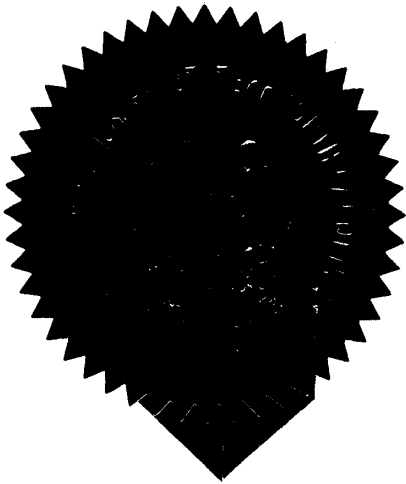
This Executive Order is effective immediately.

Done in the Capital City of Raleigh, North Carolina, this 27th day of February 2003.

  
MICHAEL F. EASLEY  
GOVERNOR

ATTEST:

  
ELAINE F. MARSHALL  
SECRETARY OF STATE



# State of North Carolina



MICHAEL F. EASLEY  
GOVERNOR

## EXECUTIVE ORDER NO. 47 WAIVER OF THE RULES AND REGULATIONS LIMITING THE HOURS OF OPERATORS OF CERTAIN COMMERCIAL VEHICLES AND THE WEIGHT RESTRICTIONS ON CERTAIN VEHICLES

WHEREAS, the North Carolina Emergency Management Act (Chapter 166A of the North Carolina General Statutes) authorizes and empowers the Governor to make, amend or rescind the necessary orders, rules and regulations within the limits of the authority conferred upon him, with due consideration of the policies of the federal government; and

WHEREAS, the North Carolina Emergency Management Act (Chapter 166A of the North Carolina General Statutes) authorizes and empowers the Governor to deliver materials or perform services for disaster purposes on such terms and conditions as may be prescribed by any existing law; and

WHEREAS, the North Carolina Emergency Management Act (Chapter 166A of the North Carolina General Statutes) authorizes the Governor, with the concurrence of the Council of State, to procure, transport, store, maintain or distribute materials; and

WHEREAS, the rapid restoration of electrical power is an essential need of the public during the winter and any interruptions threatens the public welfare; and

WHEREAS, the Federal Motor Carrier Safety regulations, 49 CFR 350, limits the hours operators of commercial vehicles may drive; and

WHEREAS, 49 CFR 395 allows the Governor to suspend the rules and regulations limiting the hours operators of commercial vehicles may drive for the duration of the motor carrier's or driver's direct assistance in providing emergency relief, or thirty (30) days from the date of the initial declaration of the emergency, whichever is less, if the Governor declares a state of emergency.

NOW, THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and laws of the State of North Carolina, IT IS ORDERED:

Section 1. The regulations under 49 C.F.R. 395 (Federal Motor Carrier Safety Regulations) as it relates to driver's hours of service are waived for 30 days or the duration of the emergency, whichever is less.

Section 2. For a period of 30 days or the duration of the emergency, whichever is less, vehicles of the type used in power restoration shall be exempt from going through North Carolina weigh station as prescribed in N.C.G.S. §21-118.1.

Section 3. The State Highway Patrol to waive size and weight restrictions and penalties therefore arising under N.C.G.S. §20-88 and N.C.G.S. §20-118, and certain registration requirements and penalties therefore arising under N.C.G.S. §§20.86.1, 20-382, 105-449.47, 105-449.49, for vehicles transporting equipment and supplies to restore utilities in the State of North Carolina.

Section 4. Notwithstanding the waivers set forth above, size and weight restrictions and penalties shall not be waived under the following conditions:

(A) When the vehicle weight exceeds the maximum gross vehicle weight criteria established by the manufacturer (GVWR) or 90,000 pounds gross vehicle weight, whichever is less.

(B) When tandem axle weights exceed 42,000 pounds and single axle weights exceed 22,000 pounds.

(C) When vehicle/vehicle combination exceeds 12 feet in width and a total overall combination vehicle length of 65 feet from bumper to bumper.

Section 5. Vehicles referenced under Section 3 shall be exempt from the following registration requirements:

(A) The \$50.00 fee listed in N.C.G.S. §105-449.49 for a temporary trip permit is waived for the vehicles described above. No quarterly fuel tax is required because the exception in N.C.G.S. §105-449.45(a)(1) applies.

(B) The registration requirement under N.C.G.S. §20-382 concerning intrastate and interstate for-hire authority; however, vehicles shall maintain the required limits of insurance.

(C) Non-participants in North Carolina's International Registration Plan will be permitted into North Carolina in accordance with the spirit of the exemptions identified by this Proclamation.

Section 6. The size and weight exemptions for the vehicles will be allowed on all routes designated by the North Carolina Department of Transportation, except those routes designated as light traffic roads under N.C.G.S. §20-118. This order shall not be in effect on bridges posted pursuant to N.C.G.S. §136-72.

Section 7. Upon request, exempted vehicles will be required to produce identification sufficient to establish that its load will be used for emergency relief efforts in the State of North Carolina.

Section 8. The State Highway Patrol shall enforce the conditions set forth in Sections 1, 2, 3, 4, 6, and 7 in a manner, which would best accomplish the implementation of these waivers without endangering motorists in North Carolina.

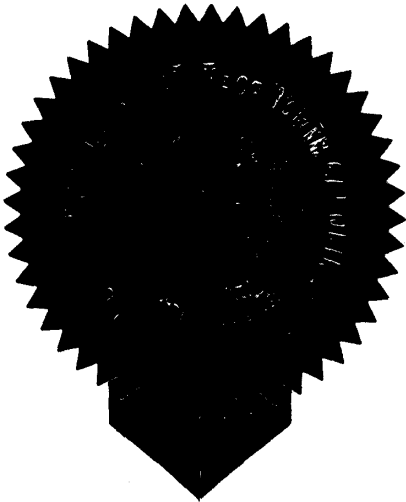
Section 9. This Executive Order shall become effective immediately.

Section 5. Further, Bryan E. Beatty, Secretary of Crime Control and Public Safety, as chief coordinating officer for the State of North Carolina, shall exercise the powers prescribed in N.C.G. S. §143B-476.

Section 6. I hereby order this proclamation: (a) to be distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (b) unless the circumstances of the state of emergency or threatened disaster prevent or impede, to be promptly filed with the Secretary of Crime Control and Public Safety, the Secretary of State, and the clerks of superior court in the counties to which it applies; and (c) to be distributed to others as necessary to assure proper implementation of this proclamation.

Section 7. This proclamation shall become effective immediately.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of North Carolina at the Capitol in Raleigh this the twenty-seventh day of February in the year two thousand and three.



*Michael F. Easley*

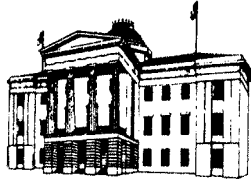
Michael F. Easley  
Governor

ATTEST:

*Elaine F. Marshall*

Elaine F. Marshall  
Secretary of State

# State of North Carolina



MICHAEL F. EASLEY  
GOVERNOR

## EXECUTIVE ORDER NO. 48 JUVENILE JUSTICE PLANNING COMMITTEE

WHEREAS, the Executive Organization Act of 1973 established the Governor's Crime Commission; and,

WHEREAS, North Carolina General Statute § 143B-480, creates the Juvenile Justice Planning Committee as an adjunct committee to advise the Governor's Crime Commission on matters referred to it which are relevant to juvenile justice; and,

WHEREAS, pursuant to North Carolina General Statute § 143B-480, the composition of the Juvenile Justice Planning Committee shall be designated by the Governor through executive order; and,

WHEREAS, the federal Juvenile Justice and Delinquency Act of 1974, as amended, requires states to establish advisory boards to administer juvenile justice and delinquency prevention grants from the United States Department of Justice; and,

WHEREAS, the Juvenile Justice Planning Committee is ideally suited to serve as such an advisory board consistent with federal law.

NOW, THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and laws of the State of North Carolina, IT IS ORDERED:

### Section 1. Membership Composition

The Juvenile Justice Planning Committee shall consist of no less than 15 and no more than 33 members each appointed by the Governor and each having training, experience, or special knowledge concerning the prevention and treatment of juvenile delinquency or the administration of juvenile justice.

The majority of the members, as well as the chair, shall not be full-time employees of federal, state or local government. At least one-fifth of the members shall be under the age of twenty-four at the time of appointment and at least three members shall be currently or have been under the jurisdiction of the juvenile justice system.

The Governor shall appoint at least one representative from the following:

- a. Elected officials representing general purpose local government.
- b. Representatives of law enforcement and juvenile justice agencies, which may include: a juvenile or family court judge, a juvenile or local prosecutor, a counsel for children and youth or a probation worker.
- c. Representatives of public agencies concerned with delinquency prevention, which may include: a social services agency, a mental health agency, a state education agency, a special education program, a recreation program, or a youth services agency.
- d. Private non-profit agencies working with children.
- e. Volunteers who work with delinquents or potential delinquents.
- f. Youth workers in alternative programs.
- g. Programs providing alternatives to suspension and expulsion.
- h. Persons with special experience relating to learning disabilities, emotional difficulties, child abuse and neglect, and youth violence.
- i. State or local police departments.
- j. Local sheriff's departments.
- k. Private non-profit, victim's advocacy organizations (guardian ad litem).
- l. Non-profit religious or community groups.

#### Section 2. Terms of Service

The terms of service for the members shall be for two-years provided, however, that the Governor may remove any member at any time for misfeasance, malfeasance or nonfeasance if necessary and to ensure continued compliance with federal requirements.

#### Section 3. Chair

The chair of the Juvenile Justice Planning Committee shall be designated by, and shall serve at the pleasure of, the chair of the Governor's Crime Commission.

#### Section 4. Meetings

The Juvenile Justice Planning Committee shall meet upon the call of the chair or upon written request of one-third of its membership. A majority of the committee shall constitute a quorum for the transaction of business.

#### Section 5. Administration of Federal Grants

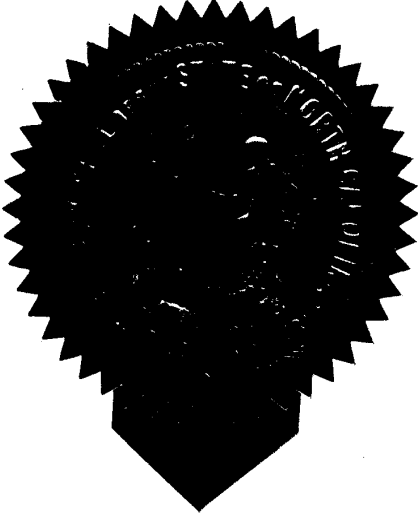
The Juvenile Justice Planning Committee shall serve as North Carolina's advisory board for purposes of administering juvenile justice and delinquency prevention grants from the Department of Justice.

#### Section 6. Duration

This executive order rescinds Governor Hunt's executive order number 116, and shall be effective immediately and shall remain in effect until rescinded.



IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of North Carolina at the Capitol in Raleigh, this the 20<sup>th</sup> day of March, 2003.



*Michael F. Easley*  
\_\_\_\_\_  
Michael F. Easley  
Governor

ATTEST:

*Elaine F. Marshall*  
\_\_\_\_\_  
Elaine F. Marshall  
Secretary of State

# State of North Carolina



MICHAEL F. EASLEY  
GOVERNOR

## EXECUTIVE ORDER NO. 49 PROCLAMATION OF STATE OF DISASTER FOR THE CITY OF EDEN

WHEREAS, I have determined that a State of Disaster and State of Emergency, as defined in N.C.G.S. §§ 166A-4 and 14-288.1(10), exists in the State of North Carolina, specifically in the City of Eden as a result of severe drought conditions.

WHEREAS, on 17 December 2002, the City of Eden proclaimed a local State of Emergency;

WHEREAS, pursuant to N.C.G.S. § 166A-6, the criteria of Type I disaster are met including the following: 1) Receipt of the preliminary damage assessment from the Secretary of Crime Control and Public Safety; 2) The City of Eden declared a local state of emergency pursuant to N.C.G.S. § 166A-8 and N.C.G.S. §§ 14-288.12, 14-288.13 and 14-288.14, and forwarded a written copy of the declaration to the Governor; 3) The preliminary damage assessment meets or exceeds the criteria established for the Small Business Disaster Loan Program pursuant to 13 C.F.R. Part 123, or meets or exceeds the State infrastructure criteria set out in N.C.G.S. § 166A-6.01(b)(2)a; and 4) A major disaster declaration by the President of the United States pursuant to the Stafford Act has not been declared; and

NOW THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, IT IS ORDERED:

Section 1. Pursuant to N.C.G.S. §§ 166A-6 and 14-288.15, a State of Disaster and State of Emergency is hereby declared for the City of Eden.

Section 2. State and local government entities and agencies are hereby ordered to cooperate in the implementation of the provisions of this proclamation and the provisions of the North Carolina Emergency Operations Plan.

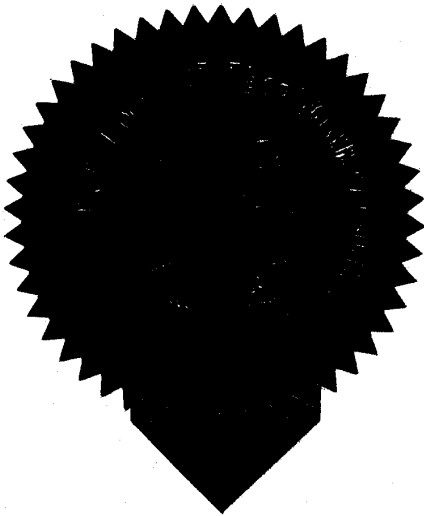
Section 3. Bryan E. Beatty, Secretary of Crime Control and Public Safety and/or his designee, is hereby delegated all power and authority granted to me and required of me by Chapter 166A and Article 36A of Chapter 14 of the General Statutes for the purpose of implementing the said Emergency Operations Plan and to take such further action as is necessary to promote and secure the safety and protection of the populace in the above-referenced City.

Section 4. Further, Bryan E. Beatty, Secretary of Crime Control and Public Safety, as chief coordinating officer of the State of North Carolina, shall exercise the powers prescribed in N.C.G.S. § 143B-476.

Section 5. I authorize this proclamation: (a) to be distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (b) unless the circumstances of the state of disaster prevent or impede, to be promptly filed with the Secretary of Crime Control and Public Safety, the Secretary of State, and the clerks of superior court in the counties to which it applies; and (c) to be distributed to others as necessary to assure proper implementation of this proclamation.

Section 6 The Type I disaster declaration shall expire 30 days after the issuance of the state of disaster and state of emergency and Type I disaster proclamation for the City of Eden, issued on April 2, 2003, unless renewed by the Governor or the General Assembly. Such renewals may be made in increments of 30 days each, not to exceed a total of 120 days from the date for first issuance. The Joint Legislative Commission on Governmental Operations shall be notified prior to the issuance of any renewal of a Type I disaster declaration.

Done in the Capital City of Raleigh, North Carolina this the 2nd day of April 2003.



  
MICHAEL F. EASLEY  
GOVERNOR

ATTEST:

  
ELAINE MARSHALL  
SECRETARY OF STATE

# State of North Carolina



MICHAEL F. EASLEY  
GOVERNOR

EXECUTIVE ORDER NO. 50  
AMENDING EXECUTIVE ORDER NO. 32  
NC COMMISSION ON BUSINESS LAWS AND THE ECONOMY

By the authority vested in me as Governor by the Constitution and laws of the State of North Carolina, IT IS ORDERED:

Section 1 of Executive Order No. 32 issued by Michael F. Easley on October 4, 2002, is hereby amended as follows:

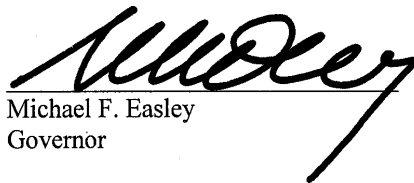
Section 1. Establishment and Composition.

The North Carolina Commission on Business Laws and the Economy is hereby composed of thirty-four members, appointed by the Governor.

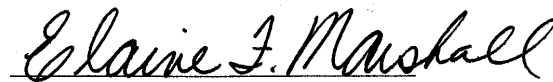
Except as amended herein, all provisions of Executive Order No. 32 shall remain in full force and effect.

Done in the Capital City of Raleigh, North Carolina, this the 28th day of April, 2003.



  
Michael F. Easley  
Governor

ATTEST:

  
Elaine F. Marshall  
Secretary of State

# State of North Carolina



**MICHAEL F. EASLEY**  
GOVERNOR

**EXECUTIVE ORDER NO. 51**  
**EXTENDING EXECUTIVE ORDER NO. 1**

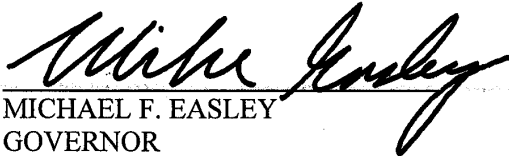
By the power vested in me as Governor by the Constitution and laws of the State of North Carolina, IT IS ORDERED:

Executive Order No. 1 regarding the North Carolina Board of Ethics, hereby is extended.

This order is effective immediately.

Done in the Capitol City of Raleigh, North Carolina, this 16<sup>th</sup> day of June 2003.



  
MICHAEL F. EASLEY  
GOVERNOR

**ATTEST:**

  
ELAINE F. MARSHALL  
SECRETARY OF STATE

# State of North Carolina



MICHAEL F. EASLEY  
GOVERNOR

## EXECUTIVE ORDER NO. 52

### Food Safety and Security Task Force

SECTION 1. Establishment. The North Carolina Food Safety and Security Task Force is hereby established.

SECTION 2. Purpose. The purpose of the Task Force is to coordinate interagency and public-private efforts to enhance protection of the State's food supply system and its agricultural industry.

SECTION 3. Membership. The Task Force shall consist of the following members, or their designees:

- (1) The Commissioner of Agriculture.
- (2) The Secretary of Environment and Natural Resources.
- (3) The Secretary of Health and Human Services.
- (4) The Secretary of Crime Control and Public Safety.
- (5) The Attorney General.
- (6) The Chancellor of North Carolina State University.
- (7) The Chancellor of North Carolina Agricultural and Technical State University.
- (8) Representatives of other government agencies, private industry and other public members invited to participate by the Task Force.  
The Commissioner of Agriculture and the Secretary of Health and Human Services shall serve as co-chairs of the Task Force.

SECTION 4. Duties. The North Carolina Food Safety and Security Task Force shall:

- (1) Assess the vulnerability of the State's food system to criminal and terrorist acts and make recommendations for:
  - a. Improved safety and security of the food supply system.
  - b. Terrorism threat reduction measures.
  - c. Improvement of food safety and security mitigation and response plans.
  - d. Training for key stakeholders in the State's food supply system.

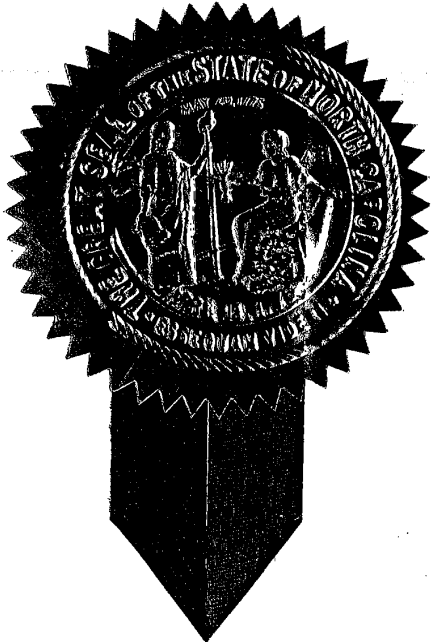
- (2) Recommend legislation needed to improve the ability of State departments and agencies to protect the safety and security of the State's food supply and the agricultural industry base, including legislation to protect sensitive and proprietary information of the State's food supply system, safety and security vulnerability information, and security plans, that, if compromised, would heighten the exposure of the State's food supply system to criminal or terrorist acts.
- (3) Recommend budget, staffing and resource adjustments necessary to improve the capability of State departments and agencies to protect the safety and security of the State's food supply system and agricultural industrial base.

SECTION 5. The Food Safety and Security Task Force shall prepare a preliminary report no later than June 1, 2004 and shall prepare a final report no later than 15 December 2004. These reports shall include any recommendations, including proposed legislation, for changes in laws, rules, and programs that the Task Force determines to be appropriate to enhance food safety and security in the State.

SECTION 6. The Office of State Budget and Management shall assist the Task Force in its efforts to obtain State and Federal funding necessary to carry out its duties.

This order shall be effective immediately.

Done in the Capital City of Raleigh this the 12<sup>th</sup> day of September, 2003.



*Michael F. Easley*  
 Michael F. Easley  
 Governor

ATTEST:

*Elaine F. Marshall*  
 Elaine F. Marshall  
 Secretary of State  
*Deputy Secretary  
 Active Secretary*

# State of North Carolina



MICHAEL F. EASLEY  
GOVERNOR

## EXECUTIVE ORDER NO. 53 EMERGENCY RELIEF FOR DAMAGE CAUSED BY HURRICANE ISABEL

WHEREAS, I have proclaimed that a state of emergency and threatened disaster exists in North Carolina due to Hurricane Isabel thereby justifying an exemption from 49 C.F.R. 390-397 (Federal Motor Carrier Safety Regulations); and

WHEREAS, under the provisions of N.C.G.S. 166A-4 and 166A-6(c)(3), the Governor, with the concurrence of the Council of State, may regulate and control the flow of vehicular traffic and the operation of transportation services; and

WHEREAS, with the concurrence of the Council of State, I have found that if vehicles bearing food, equipment, and supplies to relieve our hurricane-stricken counties must adhere to the registration requirements of N.C.G.S. 20-86.1 and 20-382, fuel tax requirements of N.C.G.S. 105-449.47, and the size and weight requirements of N.C.G.S. 20-116 and N.C.G.S. 20-118 citizens in those counties will likely suffer losses and, therefore, invoke an imminent threat of widespread damage within the meaning of N.C.G.S. 166A-4.

NOW THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, and with the concurrence of the Council of State IT IS ORDERED:

Section 1. The North Carolina State Highway Patrol shall waive certain size and weight restrictions and penalties therefore arising under N.C.G.S. 20-116 and N.C.G.S. 20-118,



and certain registration requirements and penalties therefore arising under N.C.G.S. 20-86.1, 20-382, 105-449.47, 105-449.49 for vehicles transporting food, equipment, and supplies along our highways to North Carolina's hurricane-stricken counties.

Section 2. Notwithstanding the waivers set forth above, size and weight restrictions and penalties have not been waived under the following conditions:

- (A) When the vehicle weight exceeds the maximum gross weight criteria established by the manufacturer (GVWR) or 90,000 pounds gross weight, whichever is less.
- (B) When the tandem axle weight exceeds 42,000 pounds and the single axle weight exceeds 22,000 pounds.
- (C) When a vehicle/vehicle combination exceeds 12 feet in width and a total overall vehicle combination length of 75 feet from bumper to bumper.

Section 3. Vehicles referenced under section 1 shall be exempt from the following registration requirements:

- (A) The \$50.00 fee listed in N.C.G.S. 105-449.49 for a temporary trip permit is waived for the vehicles described above. No quarterly fuel tax is required because the exception in N.C.G.S. 105-449.45(a)(1) applies.
- (B) The registration requirement under N.C.G.S. 20-382 concerning intrastate and interstate for-hire authority is waived; however, vehicles shall maintain the required limits of insurance.
- (C) Non-Participants in North Carolina's International Registration Plan will be permitted into North Carolina in accordance with the spirit of the exemptions identified by this Executive Order.

Section 4. The size and weight exemption for vehicles will be allowed on all routes designated by the North Carolina Department of Transportation, except those routes designated

as light traffic roads under N.C.G.S. 20-118. This order shall not be in effect on bridges posted pursuant to N.C.G.S. 136-72.

Section 5. The rules and regulations limiting the hours operators of commercial motor vehicles may drive are suspended for a duration of the motor carrier's or driver's direct assistance in providing emergency relief or 30 days from the date of the initial declaration of the emergency, whichever is less.

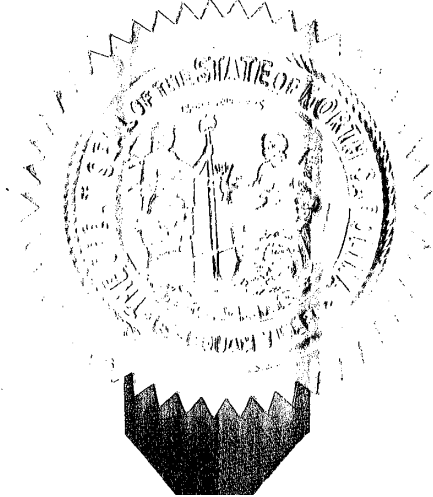
Section 6. The waiver of regulations under 49 C.F.R. 390-397 (Federal Motor Carrier Safety Regulations) does not apply to the CDL and Insurance Requirements. This waiver shall be in effect for 30 days or for the duration of the emergency, whichever is less.

Section 7. The North Carolina State Highway Patrol shall enforce the conditions set forth in Sections 1, 2 and 3 in a manner, which would best accomplish the implementation of this rule without endangering motorists in North Carolina.

Section 8. Upon request, exempted vehicles will be required to produce identification sufficient to establish that its load will be used for emergency relief efforts associated with Hurricane Isabel.

This Executive Order is effective immediately and shall remain in effect for thirty (30) days.

Done in the Capitol City of Raleigh, North Carolina this 16<sup>th</sup> day of September, 2003.



*Michael F. Easley*  
Michael F. Easley  
Governor

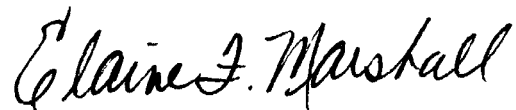
ATTEST:

*Elaine F. Marshall*  
Elaine F. Marshall *by and through*  
Secretary of State *Redney Marshall*  
*Chief Deputy Secretary*

3

STATE OF NORTH CAROLINA  
DEPARTMENT OF STATE,  
RALEIGH, DECEMBER 16, 2003

I, ELAINE F. MARSHALL, Secretary of State of North Carolina hereby certify that the foregoing volume was printed under the direction of the Legislative Services Commission from ratified acts and resolutions and executive orders of the Governor on file in the office of the Secretary of State.

A handwritten signature in black ink that reads "Elaine F. Marshall". The signature is written in a cursive style with a large initial 'E'.

*Secretary of State*



**JOINT CONFERENCE COMMITTEE REPORT  
ON THE  
CONTINUATION, EXPANSION  
AND CAPITAL BUDGETS**

**June 28, 2003**



## TABLE OF CONTENTS

	<u>Page</u>
General Fund Availability Statement	1
Summary: General Fund Appropriations	2
<b>EDUCATION</b>	
Public Education	F1
UNC System	F6
Community Colleges	F9
<b>HEALTH AND HUMAN SERVICES</b>	G1
<b>NATURAL AND ECONOMIC RESOURCES</b>	
Agriculture and Consumer Services	H1
Labor	H6
Environment and Natural Resources	H8
Commerce	H15
<b>JUSTICE AND PUBLIC SAFETY</b>	
Judicial	I 1
Justice	I 4
Juvenile Justice & Delinquency Prevention	I 6
Correction	I 8
Crime Control and Public Safety	I 11
<b>GENERAL GOVERNMENT</b>	
Administration	J1
Auditor	J4
Cultural Resources	J6
General Assembly	J15
Governor	J16
Insurance	J18
Lieutenant Governor	J21
Office of Administrative Hearings	J22
Office of Information Technology Services	J24
Revenue	J27
Secretary of State	J36
State Board of Elections	J38
State Budget and Management	J40
State Controller	J42
Treasurer	J43
<b>TRANSPORTATION</b>	K1
<b>RESERVES/DEBT SERVICE/ADJUSTMENTS</b>	L1
<b>CAPITAL</b>	M1





**Budget Reform Statement  
General Fund Availability**

	<u>FY 2003-2004</u>	<u>FY 2004-2005</u>
<b>Unappropriated Balance Remaining from FY 2002-03</b>	<b>103,885</b>	<b>163,383,597</b>
<b>Beginning Credit Balance</b>	<b>409,159,298</b>	
Credit to Savings Reserve Account	(150,000,000)	0
Credit to Repairs & Renovations Reserve Account	(15,000,000)	0
<b>Beginning Unreserved Credit Balance</b>	<b>244,159,298</b>	<b>0</b>
<b>Revenues Based on Existing Tax Structure</b>	<b>13,028,600,000</b>	<b>13,766,160,000</b>
<b>Non-tax Revenues</b>		
Investment Income	113,900,000	119,690,000
Judicial Fees	137,520,000	144,430,000
Disproportionate Share	100,000,000	100,000,000
Insurance	51,900,000	53,900,000
Other Non-Tax Revenues	116,050,000	120,100,000
Highway Trust Fund/Use Tax Reimbursement Transfer	252,422,125	242,586,830
Highway Fund Transfer	16,379,000	16,166,400
<b>Subtotal Non-tax Revenues</b>	<b>788,171,125</b>	<b>796,873,230</b>
<b>Total General Fund Availability</b>	<b>14,061,034,308</b>	<b>14,726,416,827</b>
<b>Adjustments to Availability: 2003 Session</b>		
Maintain Sales Tax Rate at 4.5%	341,750,000	388,200,000
Maintain Top Income Tax Bracket at 8.25%	37,500,000	92,700,000
Conform to Federal Definition of Child for State Child Tax Credit	16,800,000	17,000,000
Equalize Insurance Tax Rate on Article 65 Corporations	18,600,000	13,900,000
Conform to Streamline Sales Tax Provision (Soft Drinks, Prepared Food & Modified Software)	44,050,000	47,600,000
Tax Soft Drinks in Vending Machines at 50% of General Rate	(4,050,000)	(8,600,000)
Restore Use Tax Line on Individual Returns	3,100,000	3,100,000
Revenue: Project Tax Collect	50,000,000	50,000,000
Revenue: Project Compliance	40,204,537	76,116,865
Divert MSA Settlement Proceeds from Tobacco Trust Fund	40,000,000	40,000,000
Divert MSA Settlement Proceeds from Health & Wellness Trust Fund	25,000,000	25,000,000
Divert Additional Proceeds from MSA	1,800,000	0
Discontinue Tobacco Discounts	1,741,667	1,900,000
Discontinue Alcohol Discounts	3,666,667	4,000,000
Fee Increases	5,710,281	5,778,569
Attorney General Settlement Funds	10,000,000	0
Transfer Special Funds	20,000,000	20,000,000
Divert Proceeds from 911 Fund	33,000,000	25,000,000
Sale of Surplus Real Property	10,000,000	30,000,000
Federal Relief Package (Grants to States)	136,859,298	0
Hurricane Floyd Disaster Relief Funds	108,796,845	0
Adjust Transfer from Insurance Regulatory Fund	2,942,777	(207,827)
Tax Reductions for Federal Conformity	(70,000,000)	0
<b>Subtotal Adjustments to Availability: 2003 Session</b>	<b>877,472,072</b>	<b>831,487,607</b>
<b>Revised General Fund Availability</b>	<b>14,938,506,380</b>	<b>15,557,904,434</b>
<b>Less: Total General Fund Appropriations</b>	<b>(14,775,122,783)</b>	<b>(15,505,328,288)</b>
<b>Unappropriated Balance Remaining</b>	<b>163,383,597</b>	<b>52,576,146</b>



**SUMMARY:**

**GENERAL FUND  
APPROPRIATIONS**



**Summary of General Fund Appropriations  
Fiscal Year 2003-04  
2003 Legislative Session**

	Governor's				Net Changes	FTE Changes	Fiscal Year 2003-04 Appropriation	Percentage Change
	Proposed 2003-04 Base Budget	Recurring Adjustments	Nonrecurring Adjustments					
<b>Education:</b>								
Community Colleges	671,476,663	(7,497,944)	(3,051,000)	(10,548,944)		660,927,719	-1.57%	
Public Education	6,066,682,250	(128,204,948)	76,573,000	(51,631,948)	(395.68)	6,035,050,302	-0.85%	
University System	1,836,352,141	(35,848,528)	(8,361,952)	(44,210,480)	518.00	1,792,141,661	-2.41%	
<b>Total Education</b>	<b>8,594,511,054</b>	<b>(171,551,420)</b>	<b>65,160,048</b>	<b>(106,391,372)</b>	<b>122.32</b>	<b>8,488,119,682</b>	<b>-1.24%</b>	
<b>Health and Human Services:</b>								
Office of the Secretary	99,449,713	(18,481,280)	1,200,000	(17,281,280)	(0.50)	82,168,433	-17.38%	
Aging Division	28,585,838	(900,000)	0	(900,000)		27,685,838	-3.15%	
Blind and Deaf / Hard of Hearing Services	9,533,508	(230,838)	0	(230,838)	(4.00)	9,302,670	-2.42%	
Child Development	267,002,174	(7,985,007)	0	(7,985,007)	15.00	259,017,167	-2.99%	
Education Services	33,168,936	(1,362,074)	0	(1,362,074)	(9.22)	31,806,862	-4.11%	
Facility Services	14,442,802	(2,186,010)	0	(2,186,010)		12,256,792	-15.14%	
Medical Assistance	2,538,978,314	(297,469,228)	(254,100,000)	(551,569,228)		1,987,409,086	-21.72%	
Mental Health	581,275,947	(3,985,700)	0	(3,985,700)		577,290,247	-0.69%	
NC Health Choice	37,317,907	12,166,372	0	12,166,372		49,484,279	32.60%	
Public Health	130,648,960	(7,196,485)	725,000	(6,471,485)	(4.45)	124,177,475	-4.95%	
Social Services	184,886,538	(1,307,864)	(4,400,000)	(5,707,864)		179,178,674	-3.09%	
Vocational Rehabilitation	40,645,338	(603,214)	0	(603,214)		40,042,124	-1.48%	
<b>Total Health and Human Services</b>	<b>3,965,935,975</b>	<b>(329,541,328)</b>	<b>(256,575,000)</b>	<b>(586,116,328)</b>	<b>(3.17)</b>	<b>3,379,819,647</b>	<b>-14.78%</b>	
<b>Justice and Public Safety:</b>								
Correction	985,276,327	(30,578,904)	(14,450,833)	(45,029,737)	(18.00)	940,246,590	-4.57%	
Crime Control & Public Safety	28,706,140	(846,814)	685,000	38,186		28,744,326	0.13%	
Judicial Department	310,319,781	(2,579,050)	(3,400,000)	(5,979,050)	1.00	304,340,731	-1.93%	
Judicial - Indigent Defense	75,049,607	(1,784,778)	0	(1,784,778)		73,264,829	-2.38%	
Justice	73,508,002	(1,732,250)	(734,442)	(2,466,692)	(5.00)	71,041,310	-3.36%	
Juvenile Justice & Delinquency Prevention	135,679,902	(5,167,157)	(199,272)	(5,366,429)	(21.00)	130,313,473	-3.96%	
<b>Total Justice and Public Safety</b>	<b>1,608,539,759</b>	<b>(42,488,953)</b>	<b>(18,099,547)</b>	<b>(60,588,500)</b>	<b>(43.00)</b>	<b>1,547,951,259</b>	<b>-3.77%</b>	
<b>Natural And Economic Resources:</b>								
Agriculture and Consumer Services	51,041,728	(2,365,920)	(180,452)	(2,546,372)	(24.00)	48,495,356	-4.99%	
Commerce	35,569,253	(1,303,273)	(869,438)	(2,172,711)		33,396,542	-6.11%	
Commerce - State Aid	10,266,728	955,357	50,000	1,005,357		11,272,085	9.79%	
Environment and Natural Resources	153,070,901	(4,260,882)	(1,633,711)	(5,894,593)	(22.11)	147,176,308	-3.85%	
DENR - Clean Water Mgmt. Trust Fund	100,000,000	(38,000,000)	0	(38,000,000)		62,000,000	-38.00%	
Labor	13,936,595	(671,141)	0	(671,141)	(4.00)	13,265,454	-4.82%	
NC Biotechnology Center	5,883,395	0	0	0		5,883,395	0.00%	
Rural Economic Development Center	4,658,607	0	0	0		4,658,607	0.00%	
<b>Total Natural and Economic Resources</b>	<b>374,427,207</b>	<b>(45,645,859)</b>	<b>(2,633,601)</b>	<b>(48,279,460)</b>	<b>(50.11)</b>	<b>326,147,747</b>	<b>-12.89%</b>	

	Governor's Proposed 2003-04		Fiscal Year 2003-04		Percentage Change
	Base Budget	Adjustments	Net Changes	Appropriation	
<b>General Government:</b>					
Administration	56,925,133	(4,919,613)	(4,869,613)	52,055,520	-8.55%
Auditor	10,847,686	(553,885)	(553,885)	10,293,801	-5.11%
Cultural Resources	54,627,586	80,181	600,181	55,227,767	1.10%
Cultural Resources - Roanoke Island	1,720,952	(86,047)	(86,047)	1,634,905	-5.00%
General Assembly	42,858,926	(1,297,463)	(1,297,463)	41,561,463	-3.03%
Governor	5,112,108	(285,605)	(135,605)	4,976,503	-2.65%
Housing Finance Agency	4,750,945	0	0	4,750,945	0.00%
Insurance	23,364,277	(207,827)	2,942,777	26,307,054	12.60%
Insurance - Worker's Compensation Fund	4,500,000	0	0	4,500,000	0.00%
Lieutenant Governor	633,293	(31,571)	(31,571)	601,722	-4.99%
Office of Administrative Hearings	2,540,719	(131,036)	(131,036)	2,409,683	-5.16%
Revenue	76,720,217	(2,058,066)	(1,789,451)	74,930,766	-2.33%
Rules Review Commission	310,454	0	0	310,454	0.00%
Secretary of State	8,210,304	(153,106)	(153,106)	8,057,198	-1.86%
State Board of Elections	3,123,646	1,791,936	3,714,151	6,837,797	118.90%
State Budget and Management	4,428,558	(216,753)	(216,753)	4,211,805	-4.89%
State Budget and Management -- Special	3,080,000	50,000	300,000	3,380,000	9.74%
State Controller	10,046,077	(351,613)	(351,613)	9,694,464	-3.50%
Treasurer - Operations	8,063,750	(488,721)	(488,721)	7,575,029	-6.06%
Treasurer - Retirement / Benefits	7,131,179	350,000	350,000	7,481,179	4.91%
<b>Total General Government</b>	<b>328,995,810</b>	<b>(8,509,189)</b>	<b>(2,197,755)</b>	<b>326,798,055</b>	<b>-0.67%</b>
<b>Transportation</b>	<b>12,842,163</b>	<b>(1,412,638)</b>	<b>(1,412,638)</b>	<b>11,429,525</b>	<b>-11.00%</b>
<b>Statewide Reserves and Debt Service:</b>					
<b>Debt Service:</b>					
Interest / Redemption	430,130,765	(42,344,845)	(42,344,845)	387,785,920	-9.84%
Federal Reimbursement	1,155,948	0	0	1,155,948	0.00%
<b>Subtotal Debt Service</b>	<b>431,286,713</b>	<b>(42,344,845)</b>	<b>(42,344,845)</b>	<b>388,941,868</b>	<b>-9.82%</b>
<b>Statewide Reserves:</b>					
State Health Plan	0	113,418,000	113,418,000	113,418,000	
Retiree Health Benefit	0	36,800,000	36,800,000	36,800,000	
Retirement System Contributions	0	16,546,000	10,000,000	26,546,000	
Compensation Increases	0	45,550,000	86,500,000	132,050,000	
Transfer of Various Benefit Plans	0	(1,000,000)	(54,000,000)	(55,000,000)	
Contingency and Emergency Fund	5,000,000	0	0	5,000,000	
Salary Adjustment Fund	500,000	4,000,000	4,000,000	4,500,000	
MH/DD/SAS Trust Fund	0	0	12,500,000	12,500,000	
HIPAA Implementation	0	0	2,000,000	2,000,000	
State Surplus Real Property System	0	0	250,000	250,000	
Blue Ribbon Commission on Medicaid Reform	0	0	250,000	250,000	
<b>Subtotal Statewide Reserves</b>	<b>5,500,000</b>	<b>215,314,000</b>	<b>57,500,000</b>	<b>278,314,000</b>	

	Governor's Proposed 2003-04 Base Budget			Fiscal Year 2003-04			Percentage Change
	Base Budget	Recurring Adjustments	Nonrecurring Adjustments	Net Changes	FTE Changes	Appropriation	
<b>Total Reserves and Debt Service</b>	436,786,713	172,969,155	57,500,000	230,469,155		667,255,868	52.76%
<b>Total General Fund for Operations</b>	15,322,038,681	(426,180,232)	(148,336,666)	(574,516,898)	(14.23)	14,747,521,783	-3.75%
<b>Other General Fund Expenditures:</b>							
Capital Improvements	0	0	27,601,000	27,601,000		27,601,000	
Repairs and Renovations	0	0	0	0		0	
<b>Total Other General Fund Expenditures</b>	0	0	27,601,000	27,601,000		27,601,000	
<b>Total General Fund Budget</b>	15,322,038,681	(426,180,232)	(120,735,666)	(546,915,898)	(14.23)	14,775,122,783	-3.57%

**Summary of General Fund Appropriations  
Fiscal Year 2004-05  
2003 Legislative Session**

	Governor's			Fiscal Year			Percentage Change
	Proposed 2004-05 Base Budget	Recurring Adjustments	Nonrecurring Adjustments	Net Changes	FTE Changes	2004-05 Appropriation	
<b>Education:</b>							
Community Colleges	671,285,977	(11,086,755)	0	(11,086,755)		660,199,222	-1.65%
Public Education	6,211,172,835	(176,177,652)	0	(176,177,652)	(399.68)	6,034,995,183	-2.84%
University System	1,857,413,185	(34,986,528)	0	(34,986,528)	518.00	1,822,426,657	-1.88%
<b>Total Education</b>	<b>8,739,871,997</b>	<b>(222,250,935)</b>	<b>0</b>	<b>(222,250,935)</b>	<b>118.32</b>	<b>8,517,621,062</b>	<b>-2.54%</b>
<b>Health and Human Services:</b>							
Office of the Secretary	100,272,566	(19,304,133)	0	(19,304,133)	(0.50)	80,968,433	-19.25%
Aging Division	28,585,838	(900,000)	0	(900,000)		27,685,838	-3.15%
Blind and Deaf / Hard of Hearing Services	9,617,846	(230,838)	0	(230,838)	(4.00)	9,387,008	-2.40%
Child Development	267,006,355	(7,795,662)	0	(7,795,662)	15.00	259,210,693	-2.92%
Education Services	32,945,950	(1,275,874)	0	(1,275,874)	(9.22)	31,670,076	-3.87%
Facility Services	14,443,088	(2,186,296)	0	(2,186,296)		12,256,792	-15.14%
Medical Assistance	2,980,706,037	(469,036,074)	(62,500,000)	(531,536,074)		2,449,169,963	-17.83%
Mental Health	584,487,605	(4,064,507)	0	(4,064,507)		580,423,098	-0.70%
NC Health Choice	37,317,907	18,114,915	0	18,114,915		55,432,822	48.54%
Public Health	132,441,289	(8,992,394)	0	(8,992,394)	(4.45)	123,448,895	-6.79%
Social Services	189,939,178	(909,910)	0	(909,910)		189,029,268	-0.48%
Vocational Rehabilitation	41,453,587	(618,729)	0	(618,729)		40,834,858	-1.49%
<b>Total Health and Human Services</b>	<b>4,419,217,246</b>	<b>(497,199,502)</b>	<b>(62,500,000)</b>	<b>(559,699,502)</b>	<b>(3.17)</b>	<b>3,859,517,744</b>	<b>-12.67%</b>
<b>Justice and Public Safety:</b>							
Correction	991,226,311	(31,329,862)	50,833	(31,279,029)	(18.00)	959,947,282	-3.16%
Crime Control & Public Safety	28,785,824	(646,814)	0	(646,814)		28,139,010	-2.25%
Judicial Department	314,116,595	(2,616,901)	0	(2,616,901)	1.00	311,499,694	-0.83%
Judicial - Indigent Defense	73,116,571	(1,784,778)	(312,342)	(2,097,120)		71,019,451	-2.87%
Justice	73,574,376	(2,115,064)	0	(2,115,064)	(5.00)	71,459,312	-2.87%
Juvenile Justice & Delinquency Prevention	138,675,409	(8,089,911)	0	(8,089,911)	(21.00)	130,585,498	-5.83%
<b>Total Justice and Public Safety</b>	<b>1,619,495,086</b>	<b>(46,583,330)</b>	<b>(261,509)</b>	<b>(46,844,839)</b>	<b>(43.00)</b>	<b>1,572,650,247</b>	<b>-2.89%</b>
<b>Natural And Economic Resources:</b>							
Agriculture and Consumer Services	51,093,029	(2,453,660)	(23,000)	(2,476,660)	(24.00)	48,616,369	-4.85%
Commerce	34,639,574	(1,303,273)	1,000,000	(303,273)		34,336,301	-0.88%
Commerce - State Aid	10,266,728	955,357	0	955,357		11,222,085	9.31%
Environment and Natural Resources	157,263,823	(4,465,813)	0	(4,465,813)	(30.11)	152,798,010	-2.84%
DENR - Clean Water Mgmt. Trust Fund	100,000,000	(38,000,000)	0	(38,000,000)		62,000,000	-38.00%
Labor	13,945,245	(671,141)	0	(671,141)	(4.00)	13,274,104	-4.81%
NC Biotechnology Center	5,883,395	0	0	0		5,883,395	0.00%
Rural Economic Development Center	4,658,607	0	0	0		4,658,607	0.00%
<b>Total Natural and Economic Resources</b>	<b>377,750,401</b>	<b>(45,938,530)</b>	<b>977,000</b>	<b>(44,961,530)</b>	<b>(58.11)</b>	<b>332,788,871</b>	<b>-11.90%</b>



	Governor's		Fiscal Year		Percentage Change	
	Proposed 2004-05 Base Budget	Recurring Adjustments	Nonrecurring Adjustments	Net Changes		2004-05 Appropriation
				FTE Changes		
<b>General Government:</b>						
Administration	57,503,556	(4,919,649)	0	(4,919,649)	52,583,907	-8.56%
Auditor	10,857,642	(563,841)	0	(563,841)	10,293,801	-5.19%
Cultural Resources	54,337,128	(248,530)	0	(248,530)	54,088,598	-0.46%
Cultural Resources - Roanoke Island	1,722,606	(86,047)	0	(86,047)	1,636,559	-5.00%
General Assembly	46,268,768	(1,297,463)	0	(1,297,463)	44,971,305	-2.80%
Governor	5,112,933	(286,430)	0	(286,430)	4,826,503	-5.60%
Housing Finance Agency	4,750,945	0	0	0	4,750,945	0.00%
Insurance	23,395,414	(207,827)	0	(207,827)	23,187,587	-0.89%
Insurance - Worker's Compensation Fund	4,500,000	0	(1,900,000)	(1,900,000)	2,600,000	-42.22%
Lieutenant Governor	633,293	(31,571)	0	(31,571)	601,722	-4.99%
Office of Administrative Hearings	2,542,833	(131,036)	0	(131,036)	2,411,797	-5.15%
Revenue	77,372,834	(2,198,740)	0	(2,198,740)	75,174,094	-2.84%
Rules Review Commission	310,454	0	0	0	310,454	0.00%
Secretary of State	8,179,923	(163,725)	(260,000)	(423,725)	7,756,198	-5.18%
State Board of Elections	3,124,003	1,791,936	0	1,791,936	4,915,939	57.36%
State Budget and Management	4,432,863	(216,753)	0	(216,753)	4,216,110	-4.89%
State Budget and Management -- Special	3,080,000	50,000	0	50,000	3,130,000	1.62%
State Controller	10,071,064	(351,613)	0	(351,613)	9,719,451	-3.49%
Treasurer - Operations	8,066,505	(488,721)	0	(488,721)	7,577,784	-6.06%
Treasurer - Retirement / Benefits	7,131,179	350,000	0	350,000	7,481,179	4.91%
<b>Total General Government</b>	<b>333,393,943</b>	<b>(9,000,010)</b>	<b>(2,160,000)</b>	<b>(11,160,010)</b>	<b>322,233,933</b>	<b>-3.35%</b>
<b>Transportation</b>	<b>12,872,739</b>	<b>(1,469,939)</b>	<b>0</b>	<b>(1,469,939)</b>	<b>11,402,800</b>	<b>-11.42%</b>
<b>Statewide Reserves and Debt Service:</b>						
<b>Debt Service:</b>						
Interest / Redemption	498,993,307	4,689,376	0	4,689,376	503,682,683	0.94%
Federal Reimbursement	1,155,948	0	0	0	1,155,948	0.00%
<b>Subtotal Debt Service</b>	<b>500,149,255</b>	<b>4,689,376</b>	<b>0</b>	<b>4,689,376</b>	<b>504,838,631</b>	<b>0.94%</b>
<b>Statewide Reserves:</b>						
State Health Plan	0	151,225,000	0	151,225,000	151,225,000	
Retiree Health Benefit	0	36,800,000	0	36,800,000	36,800,000	
Retirement System Contributions	0	154,200,000	0	154,200,000	154,200,000	
Compensation Increases	0	45,550,000	0	45,550,000	45,550,000	
Transfer of Various Benefit Plans	0	(1,000,000)	(12,000,000)	(13,000,000)	(13,000,000)	
Contingency and Emergency Fund	5,000,000	0	0	0	5,000,000	
Salary Adjustment Fund	500,000	4,000,000	0	4,000,000	4,500,000	
MH/DD/SAS Trust Fund	0	0	0	0	0	
HIPAA Implementation	0	0	0	0	0	
<b>Subtotal Statewide Reserves</b>	<b>5,500,000</b>	<b>390,775,000</b>	<b>(12,000,000)</b>	<b>378,775,000</b>	<b>384,275,000</b>	
<b>Total Reserves and Debt Service</b>	<b>505,649,255</b>	<b>395,464,376</b>	<b>(12,000,000)</b>	<b>383,464,376</b>	<b>889,113,631</b>	<b>75.84%</b>

	Governor's				Fiscal Year		Percentage Change
	Proposed 2004-05 Base Budget	Recurring Adjustments	Nonrecurring Adjustments	Net Changes	FTE Changes	2004-05 Appropriation	
<b>Total General Fund for Operations</b>	16,008,250,667	(426,977,870)	(75,944,509)	(502,922,379)		15,505,328,288	-3.14%
<b>Other General Fund Expenditures:</b>							
Capital Improvements	0	0	0	0		0	
Repairs and Renovations	0	0	0	0		0	
<b>Total Other General Fund Expenditures</b>	0	0	0	0	0.00	0	
<b>Total General Fund Budget</b>	16,008,250,667	(426,977,870)	(75,944,509)	(502,922,379)	(26.23)	15,505,328,288	-3.14%

# **EDUCATION**

## **Section F**



Public Education

GENERAL FUND

	FY 2003-04	FY 2004-04
<b>Recommended Budget</b>	<b>\$6,086,682,250</b>	<b>\$6,211,172,835</b>

Legislative Changes

A. State Public School Fund - Adjustments

<b>1 Average Daily Membership (ADM)</b>	(\$12,561,172)	R	(\$30,753,953)	R
Revise projected increase in ADM for FY 2003-04 to reflect (3,210) fewer students than originally projected. Dollar amount of reduction includes decrease to all position, dollar, and categorical allotments.				
Total funded ADM for FY 2003-04 is 1,342,806, an increase over FY 2002-03 of 15,941.				
Due to downward adjustment in ninth grade ADM, reduce receipts from Highway Fund budgeted for Driver's Education by (\$199,298) in FY 2003-04 and (\$170,291) in FY 2004-05.				
<b>2 Budgeted Average Salary</b>	(\$37,352,516)	R	(\$68,781,087)	R
Revise budgeted funding for certified personnel salaries based on actual salary data from December 2002. Adjustment does not decrease any salary paid to certified personnel.				
<b>3 Exceptional Children</b>	(\$2,934,637)	R	(\$2,934,637)	R
Revise budgeted funding for children with special needs to reflect actual April 1, 2003 headcount. Continuation budget was based on projected headcount. Adjustment does not reduce funding per child.				
<b>4 Principals</b>	(\$6,269,239)	R	(\$6,269,239)	R
Revise allotment to LEAs for Principals to reflect projected 2,242 schools for FY 2003-04 and 2,302 schools for FY 2004-05.				
	-83.00		-83.00	
<b>5 Assistant Principal Allotment</b>	(\$5,061,578)	R	(\$5,061,578)	R
Revise allotment to LEAs for Assistant Principals to reflect funding only of certified personnel. Continuation budget included funds for 131 Assistant Principal Intern positions which are eliminated.				
	-131.00		-131.00	
<b>6 Teacher Assistants</b>	(\$2,349,271)	R	(\$2,349,271)	R
Revise dollar allotment for Teacher Assistants to be in accordance with Public Schools allotment formula of \$828.45 per ADM. Continuation budget reflected an increase based on additional funds per student.				

Conference Report on the Continuation, Capital, and Expansion Budget	FY 2003-04		FY 2004-04	
<b>7 At-Risk Student Services</b>	(\$852,723)	R	(\$852,723)	R
Revise portion of categorical allotment for At-Risk Student Services that is based on number of students in poverty to reflect a 1% decrease in this population, as per most recent estimates.				
<b>8 School Resource Officers</b>	(\$151,352)	R	(\$302,704)	R
Revise funding for School Resource Officers to reflect opening of four fewer new high schools in FY 2003-04 than originally projected. This revision anticipates 16 new high schools per year for FY 2003-04 and FY 2004-05.	-4.00		-8.00	
<b>9 Personnel Services</b>	(\$3,715,895)	R	(\$3,715,895)	R
Revise budgeted reserve for workers compensation/short term disability based on actual expenditures in FY 2001-02 and FY 2002-03 year-to-date expenditures.				
<b>B. State Public School Fund - Reductions</b>				
<b>10 Central Office Administration</b>	(\$1,949,154)	R	(\$1,949,154)	R
Reduce allotment to LEAs for Central Office Administration by 2%.	-26.00		-26.00	
<b>11 Classroom Materials, Supplies, &amp; Equipment</b>	(\$2,497,619)	R	(\$2,497,619)	R
Reduce dollar allotment for Materials, Supplies, & Equipment to reflect funding of FY 2003-04 ADM at dollars-per-ADM ratio budgeted in FY 2002-03. Eliminate inflationary increase in dollars-per-ADM ratio reflected in FY 2003-04 continuation budget.				
<b>12 Formula for PSAT Funding</b>	(\$1,557,910)	R	(\$1,557,910)	R
Reduce funding for PSAT by restoring allotment rate to FY 2001-02 level of \$2.69 per eighth and ninth grade ADM.				
<b>13 Textbooks</b>	(\$3,990,911)	R	(\$3,990,911)	R
Reduce dollar allotment for Textbooks to reflect funding of FY 2003-04 ADM at dollars-per-ADM ratio budgeted in FY 2002-03. Eliminate inflationary increase in dollars-per-ADM ratio reflected in FY 2003-04 continuation budget.				
<b>14 Non-Instructional Support</b>	(\$13,000,000)	R	(\$13,000,000)	R
Reduce the allotment to LEAs for clerical and custodial support by \$13 million. Continue funding for substitute teachers at FY 2002-03 level.	-533.00		-533.00	
<b>15 Technology Fund</b>	(\$2,500,000)	NR		
Reduce appropriation for State School Technology Fund.				
<b>16 School Bus Replacement</b>	(\$11,000,000)	NR		
Revise school bus replacement schedule for FY 2003-04 to reflect replacement of 692 buses with a three-year lease purchase contract.				

Conference Report on the Continuation, Capital, and Expansion Budget	FY 2003-04		FY 2004-04	
<b>17 Transportation</b>				
Reduce allotment to LEAs for mechanics, garage operations, fuel costs, parts, bus drivers' salaries and benefits, and other operational costs for school bus operations.	(\$5,000,000)	NR		
<b>18 School Bus Driver Physicals</b>	(\$560,000)	R	(\$560,000)	R
Eliminate appropriation for bus driver physicals. The Department of Transportation has eliminated the requirement that school bus drivers receive physicals.				
<b>19 Bonding of Fiscal Officers</b>	(\$48,944)	R	(\$48,944)	R
Eliminate funds allotted to LEAs for bonding of fiscal officers.				
<b>20 School Breakfast Program</b>	(\$800,000)	R	(\$800,000)	R
Reduce funds for no-cost breakfast for kindergarten students who do not qualify for free or reduced lunch to align funding with anticipated pattern of utilization.				
<b>21 Department of Public Instruction</b>	(\$311,331)	R	(\$311,331)	R
Reduce appropriation for Department of Public Instruction by 1%. Department has flexibility to determine what budget items are reduced.				
<b>22 Local Education Agency Discretionary Reduction</b>	(\$44,291,248)	R	(\$44,291,248)	R
Reduce funds allotted by the State Board of Education to local education agencies (LEAs), who will have discretion in determining what budget items are reduced. The State Board shall distribute the reduction based upon average daily membership (ADM) and shall require allotment reductions in this amount within 30 days of budget passage for FY 2003-04 and by September 1, 2004 for FY 2004-05. By August 15, 2004, for FY 2005-06 and subsequent fiscal years, the State Board shall determine changes to the allotment categories that will make the \$42,000,000 reduction permanent. These changes will be subject to the approval of the General Assembly.				
LEA flexibility to adjust budgets precludes identification of number of positions that will be affected by this reduction.				
<b>23 Vocational Education</b>	(\$8,000,000)	R	(\$8,000,000)	R
Reduce categorical allotment to LEAs for Vocational Education.				
	-173.18		-173.18	
<b>24 Vocational Education Program Support</b>	(\$448,038)	R	(\$448,038)	R
Reduce categorical allotment to LEAs for Vocational Education Program Support.				
<b>25 Teacher Assistants</b>	(\$8,000,000)	R	(\$8,000,000)	R
Reduce dollar allotment to LEAs for Teacher Assistants.				
<b>26 Teachers and Instructional Support On-Loan</b>	(\$746,384)	R	(\$746,384)	R
Reduce funding for teachers and instructional support on-loan from LEAs to the Department of Public Instruction to align with level of utilization in FY 2002-03.	-16.50		-16.50	

Public Education

Page F 3

Conference Report on the Continuation, Capital, and Expansion Budget	FY 2003-04		FY 2004-04	
<b>27 At-Risk Student Services</b>	(\$352,819)	R	(\$352,819)	R
Reduce categorical allotment for At-Risk Student Services by 50% of the adjusted continuation budget increase in FY 2003-04.				
<b>28 Testing</b>	(\$1,000,000)	R	(\$1,000,000)	R
Reduce appropriation for testing to reflect increase in federal receipts for that purpose.				
<b>29 ADM &amp; Charter School Contingency Reserves</b>	(\$1,405,501)	R	(\$1,405,501)	R
Combine ADM Contingency Reserve (\$6,000,000) & Charter School Contingency Reserve (\$2,405,501) into one reserve that can be used to address unexpected increases in either Public School or Charter School ADM. Reduce consolidated reserve.				
<b>C. Reductions to Other Funds</b>				
<b>30 Literary Loan Fund</b>				
Utilize cash balance in Literary Loan Fund for public school operations.				
	(\$1,000,000)	NR		
<b>D. Expansion</b>				
<b>31 ABC Bonuses</b>				
Provide funding for ABC bonuses for schools that in FY 2002-03 meet or exceed expected growth.				
	\$96,000,000	NR		
<b>32 Second Grade Class Size</b>	\$25,303,294	R	\$25,303,294	R
Provide funds to support reduction of the teacher to student allotment ratio for second grade from 1:20 to 1:18.				
	571.00		571.00	
<b>33 Low Wealth Supplemental Funding</b>	\$5,000,000	R	\$5,900,000	R
Increase categorical allotment for Low Wealth Supplemental Funding.				
<b>34 Small County Supplemental Funding</b>	\$1,000,000	R	\$1,900,000	R
Increase categorical allotment for Small County Supplemental Funding.				
<b>35 LEA Assistance Program and Aid to Implement No Child Left Behind</b>	\$500,000	R	\$500,000	R
Provide funds to DPI to establish an assistance program for LEA's that are identified by the State Board of Education as low-performing and to assist in meeting Adequate Yearly Progress requirements of the federal No Child Left Behind legislation.				
<b>36 Financial Literacy Pilot Program</b>	\$73,000	NR		
Provides funds to the State Board of Education to establish a pilot program to assist LEAs in teaching personal financial literacy.				
<b>37 ExplorNet</b>	\$200,000	R	\$200,000	R
Provide increased funds to support ExplorNet, a non-profit organization that promotes effective use of information technology in the public schools.				

Public Education

Page F 4



---

<b>Total Legislative Changes</b>	<b>(\$128,204,948)</b>	<b>R</b>	<b>(\$176,177,652)</b>	<b>R</b>
	<b>\$76,573,000</b>	<b>NR</b>		
<b>Total Position Changes</b>	<b>-395.68</b>		<b>-399.68</b>	
<b>Revised Budget</b>	<b>\$6,035,050,302</b>		<b>\$6,034,995,183</b>	

---

UNC System

GENERAL FUND

<b>Recommended Budget</b>	<b>FY 2003-04</b>	<b>FY 2004-04</b>
	\$1,836,352,141	\$1,857,413,185

**Legislative Changes**

**UNC**

<b>38 Reduction in Continuation Budget Increase</b>	(\$2,000,000)	R	(\$2,000,000)	R
Reduce the amount requested by the UNC system for continuation increases. Some of the categories for reduction of inflationary or other types of continuation increases include utilities, building reserves, equipment and vehicle replacements.				
<b>39 One-Time Flexibility Reduction for Campuses</b>	(\$13,889,896)	NR		
It is recommended by the Governor that the 2003-04 continuation budget be reduced by approximately .77% for each of the sixteen campuses and UNC General Administration. These are to be management flexibility reductions.				
<b>40 Flexibility Reduction for Campuses</b>	(\$44,768,948)	R	(\$44,768,948)	R
The Governor recommends a 3% management flexibility reduction for the sixteen campuses and UNC General Administration.				
<b>41 Flexibility Reduction for Special Campuses</b>	(\$3,094,989)	R	(\$3,094,989)	R
The Governor recommends a reduction of 1.5% for the NC School of Science and Math, the Area Health Education Centers (AHEC), and UNC Hospitals. These are management flexibility reductions.				
<b>42 Escheat Fund Offset</b>	(\$13,500,000)	R	(\$13,500,000)	R
The Governor recommends reducing a portion of the General Funds used to pay for the UNC need-based scholarship program by using funds from the Escheat Fund. This is not a true cut, but rather a swap of funding sources to pay for scholarships for need-based aid.				
<b>43 Regular Term Enrollment Growth</b>	\$46,590,409	R	\$46,590,409	R
The Governor recommends full funding of the UNC Board of Governors' enrollment growth request. It estimates an increase of 6,123 full-time equivalent (FTE) students or 4.5% to 152,991 FTE in 2003-04. Of this amount \$500,000 shall be used to fund the enrollment increases at the NC School of Science and Math.				
	518.00		518.00	

Conference Report on the Continuation, Capital, and Expansion Budget	FY 2003-04		FY 2004-04	
<b>44 Tuition Increase</b>	(\$24,000,000)	R	(\$24,000,000)	R
The UNC Board of Governors shall increase resident and nonresident tuition rates by 5% for the next academic year. These receipts shall be used to partially offset the cost of funding the UNC enrollment growth. There is a \$500 limit on the tuition increase for the 2003-04 year for out-of-state students enrolled in professional schools at the graduate level.				
<b>45 Aid to Private College Enrollment Growth</b>	\$2,800,000	R	\$2,800,000	R
Regular Term Enrollment projections from the NC Association of Independent Colleges and Universities indicate an increase in enrollment for 2003-04 over the current budgeted FTE students. Based upon their estimate, enrollment is projected to increase by 1,300 FTE.				
<b>46 Need-Based Financial Aid Growth</b>				
The Governor recommends adding \$10,250,000 to the need-based UNC students financial aid program. This amount shall be funded from the Escheat Fund.				
<b>47 Self-Supporting Supercomputer Services</b>	(\$500,000)	NR		
Reduces funds for one year to purchase supercomputer services from MCNC and moves to fee for service.				
<b>48 Strategic Initiative Reserve</b>	\$1,000,000	R	\$1,000,000	R
Enhance the UNC System President's Strategic Initiative Reserve.				
<b>49 Reduce Inflationary Increases</b>	(\$1,600,000)	R	(\$1,600,000)	R
Eliminates the continuation budget increases included in the Governor's recommended budget for aid to private medical schools, medical and dental scholars programs. This would keep these budgets at the same level of funding available for this year.				
<b>50 UNC-Charlotte Doctoral Transition and Teacher Ed. Funds</b>	\$200,000	R	\$200,000	R
Provides additional funds for UNC-Charlotte to become a Doctoral Intensive campus and for additional teacher education funds.				
<b>51 Special Needs Institutions</b>	\$1,000,000	R	\$1,000,000	R
Funds the Board of Governors' request for two campuses with unique missions and small size to continue those missions. These campuses are UNC-Asheville and NC School of the Arts.				
<b>52 Articulation Agreement Study Funds</b>	\$35,000	NR		
Provides partial funding to pay for an independent study of the UNC and Community College Articulation Agreement.				
<b>53 World View Funds</b>	\$275,000	R	\$275,000	R
Appropriates \$275,000 for the World View program at UNC-Chapel Hill.				

Conference Report on the Continuation, Capital, and Expansion Budget	FY 2003-04		FY 2004-04	
<b>54 Focused Growth Campus Funds</b>	\$1,000,000	R	\$1,000,000	R
Provides additional funds to be evenly divided among the seven focused growth institutions to prepare for additional student enrollment growth.	\$4,000,000	NR		
<b>55 Math Science Education Network</b>	\$250,000	R	\$250,000	R
Provides funds for expansion of MSEN operations at Winston-Salem State University.				
<b>56 School of Science and Math/College Scholarships</b>			\$780,000	R
Provides a full tuition grant to all students who graduate from the NC School of Science and Math and who enroll full-time in a constituent institution of the University of NC. The program funds students graduating in the 2003-04 academic year.				
<b>57 NC A&amp;T State Matching Funds</b>				
Provides funds for NC A&T State University to match federal funds to conduct agricultural research and Cooperative Extension Service work.	\$1,092,944	NR		
<b>58 Engineering Start-Up Funds</b>				
The University Board of Governors shall allocate \$300,000 to each of the following engineering programs for start up costs only if the Board of Governors has approved the new engineering degree programs: UNC-A (in conjunction with NCSU) WCU (in conjunction with UNCC) ECU. If all these funds are not necessary for these start-up costs, they shall revert to the General Fund by June 30, 2004.	\$900,000	NR		
<b>59 NCSU Structural Pest Control Training Center Operating Cost</b>			\$82,000	R
Provides funds to NCSU for second year operating costs for a Structural Pest Control Training Center facility.				
<b>Total Legislative Changes</b>	(\$35,848,528)	R	(\$34,986,528)	R
	(\$8,361,952)	NR		
<b>Total Position Changes</b>	518.00		518.00	
<b>Revised Budget</b>	\$1,792,141,661		\$1,822,426,657	

Community Colleges

GENERAL FUND

	FY 2003-04		FY 2004-04
<b>Recommended Budget</b>	<b>\$671,476,663</b>		<b>\$671,285,977</b>
<b>Legislative Changes</b>			
<b>A. Formula Modifications</b>			
<b>60 Administrative Formula Adjustment</b>	(\$9,727,983)	R	(\$9,727,983) R
<p>Reduces the enrollment allotment in the administrative formula from \$1,093 per FTE above 750 to \$1,075.50 per FTE above 750 (\$2,192,567). The State Board of Community Colleges may determine how the additional 3% reduction will be managed within the administrative formula (\$7,535,416).</p>			
<b>B. Categorical and Miscellaneous Programs</b>			
<b>61 Community Service Block Grant</b>	(\$170,337)	R	(\$170,337) R
<p>Reduces the Community Service Block Grant to the 2001-02 actual expenditure level, from \$1.5 million to \$1,329,663.</p>			
<b>62 Summer Term</b>	(\$3,588,812)	R	(\$7,177,623) R
<p>Phases out the Summer Term Block Grant over two years. In FY02-03, the summer term block grant will be reduced by 50%, from \$7,177,623 to \$3,588,812. In FY03-04, the block grant will be eliminated. Colleges can use regular term instructional funding to pay for summer term course offerings.</p>			
<b>63 Human Resource Development (HRD)</b>	(\$1,995,665)	R	(\$1,995,665) R
<p>Phases out 50% of the Human Resource Development block grant over one year. HRD courses now earn budgeted continuing education FTE.</p>			
<b>64 Use of Cash Balance to Off-Set General Fund Appropriation</b>	(\$4,095,415)	NR	
<p>Directs the State Board of Community Colleges to utilize existing cash balances to off-set a General Fund appropriation for NEIT for one-year.</p>			
<b>65 Academic Support Supplement</b>	(\$3,000,000)	R	(\$3,000,000) R
<p>Reduces funding for the Academic Support Supplement from \$8,840,343 to \$5,840,343.</p>			
<b>66 Special Allotments</b>	(\$48,945)	R	(\$48,945) R
<p>Eliminates the sawmill funding from the Special Allotments line item.</p>			

**67 Multi-Campus College Funding**

\$300,000 R \$300,000 R

Although the appropriation for multi-campus colleges has not changed since FY99-00, the per campus allotment has been reduced due to an increase in the number of campuses eligible for the funding. This appropriation provides additional funding in order to increase the per campus allotment to FY01-02 levels. The State Board shall allocate to each college with multi-campus designation the sum of \$102,591 per campus. Colleges with campuses that will come on-line during the fiscal year shall receive a pro-rata share of the per campus allotment. Funds remaining in the line item at the end of the year shall revert.

**68 Hickory Metropolitan Higher Education Center**

\$474,750 NR

Provides a non-recurring grant-in-aid to the Hickory Metropolitan Higher Education Center.

**69 Public Radio**

\$200,000 NR

Provides non-recurring funds to be divided equally among the colleges that currently operate public radio stations.

**70 Automotive Training Incentive**

\$125,000 NR

Provides a one-time grant to match a donation from the North Carolina Automotive Dealers Association to fund an incentive program.

**71 Middle College Start-Up Funds**

\$300,000 NR

Provides start-up funds for a Middle College program at Edgecombe Community College provided private funds are not made available for this purpose. If private funds are obtained, these funds shall revert to the General Fund by June 30, 2004.

**72 Youth Development Center Scholarships**

\$100,000 NR

Provides funding to the NC Community College Foundation for community college scholarships for students who have completed their commitment to a Youth Development Center operated by the NC Department of Juvenile Justice and Delinquency Prevention and who have obtained a high school diploma or its equivalent.

**73 Comprehensive Articulation Agreement Study**

\$35,000 NR

Provides 50% of the funding for an independent study of the Comprehensive Articulation Agreement.

**74 Regional Continuing Education Center**

\$814,000 NR

Provides non-recurring funds for the Enka Campus of A-B Tech.

**75 Community College Instructional Trust Fund**

Provides matching funds from the Escheat Fund for colleges who have raised at least \$25,000 in private donations for their Foundation. The State will provide one dollar for every two dollars raised, up to \$25,000 per college. State matching funds shall only be used for scholarships or financial aid for needy students.

**Community Colleges**

Conference Report on the Continuation, Capital, and Expansion Budget	FY 2003-04		FY 2004-04	
<b>76 Fayetteville Tech Botanical Lab</b>	\$300,000	R	\$300,000	R
Provides a recurring appropriation for the operation of the Botanical Lab.				
<b>C. Management Flexibility</b>				
<b>77 Management Flexibility Reserve</b>	(\$11,237,420)	R	(\$11,237,420)	R
Allows the State Board of Community Colleges to distribute discretionary reductions to the colleges and allows individual colleges the flexibility to adjust their budget to implement the reduction.				
<b>D. System Office</b>				
<b>78 System Office</b>	(\$102,539)	R	(\$102,539)	R
The Governor recommends a 1% reduction to the System Office. This item reduces the System Office Budget (excluding CIS and Financial Aid) by \$102,539.				
<b>E. Tuition, Enrollment, and Financial Aid</b>				
<b>79 Need-Based Financial Aid</b>	(\$7,062,806)	R	(\$7,062,806)	R
The Governor has recommended using interest earned on the Escheat Fund for financial aid in the universities and community colleges. This reduction eliminates the General Fund appropriation for Need-Based Financial Aid. Funding for community college need-based financial aid will be provided at the same level from the Escheat Fund.				
<b>80 Tuition Increase</b>	(\$3,200,000)	R	(\$3,200,000)	R
Increases curriculum tuition by 3.2%, from \$34.25 per credit hour to \$35.50 per credit hour. Full-time students will pay \$568 per semester or \$1,136 per year (Fall and Spring).				
<b>81 Additional Funds for Need-Based Financial Aid</b>				
Provides an additional \$3.2 million for need-based financial aid for FY03-04 and FY04-05 to be funded from the Escheat Fund. A special provision in the university part of the budget appropriates the funds.				
<b>82 Enrollment Growth</b>	\$32,036,563	R	\$32,036,563	R
Fully funds the community college enrollment request.				
<b>83 Over-realized Receipts</b>	(\$3,000,000)	NR		
Increases the amount budgeted for receipts by \$3,000,000.				

---

<b>Total Legislative Changes</b>	<b>(\$7,497,944)</b>	<b>R</b>	<b>(\$11,086,755)</b>	<b>R</b>
	<b>(\$3,051,000)</b>	<b>NR</b>		
<b>Total Position Changes</b>				
<b>Revised Budget</b>	<b>\$660,927,719</b>		<b>\$660,199,222</b>	

---



**HEALTH  
&  
HUMAN SERVICES**

**Section G**



Health and Human Services

GENERAL FUND

<b>Recommended Budget</b>	<b>FY 2003-04</b>		<b>FY 2004-05</b>
	\$3,965,935,975		\$4,419,217,246

**Legislative Changes**

**( 1.0) Division of Aging**

<b>1 Home and Community Care Block Grant Services</b>	(\$1,000,000)	R	(\$1,000,000)	R
Reduces state funds for the Home and Community Care Block Grant.				
<b>2 Funds for Senior Centers</b>	\$100,000	R	\$100,000	R
Provides funds for Senior Center Outreach and Development.				

**( 2.0) Division of Social Services**

<b>3 Contract Reductions/Eliminations</b>	(\$213,180)	R	(\$213,180)	R
Reduces contracts in the Children Services Section.				
Children's Home Society of N.C., Inc.	(\$7,000)			
General Baptist State Convention of N.C., Inc.	(\$3,836)			
N.C. Dept. of Justice	(485)			
North Carolina State University	(\$5,925)			
UNC-CH Child Welfare Education Collaborative	(\$58,561)			
UNC- Greensboro	(\$717)			
Resources for Change	(\$5,687)			
Children and Family Services	(\$8,630)			
Family and Children Resource Program	(\$31,608)			
Another Choice for Black Children	(\$8,125)			
Appalachian State University - Social Work Program	(\$6,375)			
UNC-CH Evaluation	(\$17,776)			
UNC-CH Medical Aspects Training	(924)			
Eliminates the following contracts:				
Eight (8) contracts for fingerprinting for criminal records checks	(\$27,775)			
Five (5) personal services contracts	(\$9,756)			
Eliada Homes	(\$20,000)			

Conference Report on the Continuation, Capital, and Expansion Budget	FY 2003-04		FY 2004-05	
<b>4 Maximize Federal Receipts for State/County SA</b>	(\$5,632,980)	R	(\$5,632,980)	R
Reduces state funds historically used to fund State/County Special rates, that are allowable expenditures covered by Medicaid. Existing state funds will be transferred from the Division of Social Services to the Division of Medical Assistance to match federal funds to increase the Adult Care Home Personal Care Services Rate. This reduction will allow for an equal savings for State/County Special Assistance for counties.				
<b>5 Inflationary Adjustments</b>	(\$438)	R	(\$884)	R
Reduces funds for inflation for the biennium.				
<b>6 Child Caring Institutions</b>	(\$710,546)	R	(\$710,546)	R
Reduces funds for Child Caring Institutions for uncompensated cost of care.				
<b>7 Work First Electing Counties</b>	(\$1,474,460)	R	(\$1,474,460)	R
Reduces excess funds for electing counties.				
<b>8 Welfare Automation Fund</b>				
Reduces funds for automation initiatives.				
<b>9 State Maternity Home Fund</b>	(\$400,000)	R	(\$400,000)	R
Replaces state funds with federal funds in the Temporary Assistance for Needy Families Block Grant.				
<b>10 State/County Special Assist. Rate Adjustment</b>	\$3,000,000	R	\$3,000,000	R
Provides state funds for a rate increase for State/County Special Assistance recipients. Total funds required for the increase are \$6,000,000, with the state funding 50% and counties funding the remaining 50%.				
<b>11 Personal Needs Allowance for SA Program</b>	\$1,123,740	R	\$1,522,140	R
Increases the personal needs allowance for recipients of State/County Special Assistance by \$10 per month increasing the allowance from \$36 to \$46 per month.				
<b>12 Foster Care/Adoption Assistance Rate Adjustment</b>	\$3,000,000	R	\$3,000,000	R
Provides funds to increase rates \$50/month per category for Foster Care and Adoption Assistance payments.				
<b>13 Food Banks</b>				
Provides funding to be equally distributed to the regional network of food banks in North Carolina.				
<b>(3.0) Division of Facility Services</b>				
<b>14 Licensure and Inspection Fees</b>	(\$2,185,738)	R	(\$2,185,738)	R
Implements fees for health care facilities (excluding Hospice and Emergency Medical Services) to pay for initial licensure and annual renewal.				

Health and Human Services

Page G 2

Conference Report on the Continuation, Capital, and Expansion Budget	FY 2003-04		FY 2004-05	
<b>15 Inflationary Adjustments</b>	(\$272)	R	(\$558)	R
Reduces inflation for the biennium.				
<b>( 4.0) Division of Chld Development</b>				
<b>16 Smart Start Local Partnership Funds</b>	(\$7,739,536)	R	(\$7,739,536)	R
Reduces funding for local partnerships' activities.				
<b>17 Inflationary Adjustments</b>			(\$4,181)	R
Eliminates noncritical inflation for the second year of the biennium.				
<b>18 Professional Development Funds</b>	(\$109,000)	R	(\$109,000)	R
Reduces the funds available for child care employees to improve their educational qualifications.				
<b>19 Child Care Licensure Fees</b>	(\$750,000)	R	(\$750,000)	R
Implements new fees for licensed child care centers and reduces state appropriations.				
<b>20 Abuse and Neglect Teams</b>	\$613,529	R	\$807,055	R
Expands the Division of Child Development's Abuse and Neglect Investigations Section by 15 staff. This expansion adds two teams to investigate licensed and unlicensed child care facilities, develop, monitor and enforce critical correction action plans, and investigate all reports of illegal child care facilities.				
	15.00		15.00	
<b>( 5.0) Office of Education Services</b>				
<b>21 Western School for the Deaf</b>	(\$330,157)	R	(\$330,157)	R
Eliminates unnecessary positions at the WNCSD, positions include 3 vacant and .725 filled positions. Positions include one Painter, one Physical Therapist, .725 Administrative Officer I and 1.0 Computer Support Tech II.				
	-3.72		-3.72	
<b>22 Inflationary Adjustments</b>	(\$198,236)	R	(\$112,036)	R
Reduces inflationary adjustments deemed not critical to sustaining agency operations and services within the Office of Educational Services.				
<b>23 Governor Morehead Preschool Program</b>	(\$229,488)	R	(\$229,488)	R
Reduces the operating budget for the Governor Morehead Preschool Program.				
<b>24 Eastern School for the Deaf</b>	(\$341,204)	R	(\$341,204)	R
Eliminates positions at the Eastern School for the Deaf. Includes 5.50 full-time equivalent positions (3.5 vacant and 2 filled). Positions include 2 Residential Life Coordinators, 2.5 Educator III's, and 1 School Administrator I.				
	-5.50		-5.50	
<b>25 Central School for the Deaf Maintenance</b>	(\$202,989)	R	(\$202,989)	R
Reduces the maintenance budget for the closed Central North Carolina School for the Deaf.				

Health and Human Services

Page G 3

Conference Report on the Continuation, Capital, and Expansion Budget	FY 2003-04		FY 2004-05	
<b>26 Transportation Budget</b>	(\$60,000)	R	(\$60,000)	R
Reduces the transportation budgets for the residential schools.				
<b>(6.0) Division of Public Health</b>				
<b>27 Scientific and Other Supplies</b>	(\$188,531)	R	(\$341,074)	R
Reduces inflationary increases for noncritical scientific and other supplies.				
<b>28 Inflationary Adjustments</b>	(\$1,759,264)	R	(\$3,402,630)	R
Reduces inflationary adjustments for purchase of medical care, energy, and utilities.				
<b>29 Disease Intervention Specialists - Receipts</b>	(\$112,101)	R	(\$112,101)	R
Reduces state appropriations for 14 positions and maximizes federal receipts to support these positions.				
<b>30 State Center for Health Statistics - Receipts</b>	(\$60,000)	R	(\$60,000)	R
Reduces state appropriations and maximizes federal and other receipts to support administrative costs.				
<b>31 Pediatric Care Clinics - Receipts</b>	(\$170,000)	R	(\$170,000)	R
Reduces state appropriations for pediatric primary care clinics within local health departments and replaces funds with federal and other funds.				
<b>32 Women's and Children's Health Section - Receipts</b>	(\$144,000)	R	(\$144,000)	R
Reduces state appropriations for the Sickle Cell Program, Community Transition Coordination, and Perinatal/Outreach and Education Training Program and maximizes federal receipts.				
<b>33 Immunization Program- Receipts</b>	(\$133,377)	R	(\$133,377)	R
Reduces state appropriations for four immunization program support positions and replaces funding with federal receipts.				
<b>34 Unencumbered Contract Funds</b>	(\$83,995)	R	(\$83,995)	R
Eliminates funds for the Area Health Education Center within the UNC School of Public Health. The funding supports health promotion training and workshop in the Office of Continuing Education.				
<b>35 Closure of the Dusty Trades Program</b>	(\$165,405)	R	(\$165,405)	R
Eliminates 3.25 vacant program positions that support the Dusty Trades Program. Positions include 1 Medical Records Clerk, and 2.25 Industrial Hygienists				
	-3.25		-3.25	
<b>36 Home Health</b>	(\$3,001,253)	R	(\$3,001,253)	R
Eliminates state funds for the purchase of home health services.				
<b>37 Pregnancy Prevention Coalition of NC</b>	(\$127,500)	R	(\$127,500)	R
Replaces state funds previously awarded to the North Carolina Pregnancy Prevention Coalition with federal funds from the Temporary Assistance for Needy Families (TANF) Block Grant.				

Health and Human Services

Page G 4

Conference Report on the Continuation, Capital, and Expansion Budget	FY 2003-04		FY 2004-05	
<b>38 Farmers' Market Program</b> Eliminates the funding for the Farmers' Market Program.	(\$156,630)	R	(\$156,630)	R
<b>39 Intensive Home Visitation Program</b> Eliminates funding for the Intensive Home Visitation Program.	(\$500,000)	R	(\$500,000)	R
<b>40 Child Fatality Task Force Staff</b> Eliminates one filled position and .20 FTE vacant position for the Child Fatality Task Force.	(\$64,429)	R	(\$64,429)	R
		-1.20		-1.20
<b>41 Health Promotion Funding</b> Reduces health promotion funding.	(\$100,000)	R	(\$100,000)	R
<b>42 Regional Offices</b> Reduces funding for regional division offices and replaces funding with federal and other receipts.	(\$230,000)	R	(\$230,000)	R
<b>43 Pap Smear Fees</b> Increases the fees charged to local health departments for the processing of pap smear specimens. Local health departments currently pay for the price of the kit which is \$7.44 and the additional \$7.00 charge will partially cover the processing of the specimens.	(\$1,050,000)	R	(\$1,050,000)	R
<b>44 Prevent Blindness</b> Provides funding for the National Society to Prevent Blindness-NC Affiliate, Inc. for the purpose of maximizing vision screenings of children in child care settings.	\$300,000	R	\$300,000	R
<b>45 Vital Records Improvement</b> Funds system upgrades for the automation and management of vital records within the Division of Public Health.	\$500,000	NR		
<b>46 Heart Disease and Stroke Prevention Task Force</b> Provides funding for activities performed by the Heart Disease and Stroke Prevention Task Force.	\$100,000	NR		
<b>47 Healthy Start Foundation</b> Provides funding to the Healthy Start Foundation for activities related to improving birth outcomes for families in North Carolina.	\$250,000	R	\$250,000	R
<b>48 Folic Acid Campaign</b> Provides funding for the state-wide folic acid campaign.	\$300,000	R	\$300,000	R
<b>49 Arthritis Prevention Program</b> Grant-in-aid for a private local project in in Mecklenburg County.	\$25,000	NR		

**50 Health Clinic**

Grant-in-aid to Public Health Authority of Cabarrus County for the start up costs of a health clinic to serve the Latino community. \$100,000 NR

**( 7.0) Division of Mental Health, Developmental Disabilities, and Substance Abuse Services**

**51 Reduce and Eliminate Contracts**

(\$894,053) R (\$894,053) R

Eliminates State funds in the following contracts:

Eliada Homes, Inc. (\$156,752)  
 MH Association of NC (\$140,000)

Replaces Contracts with Block Grant Funds:

East Carolina University (\$124,282)  
 NC SA Professional Cert. Board (\$25,000)  
 Step One, Inc. (\$98,947)

Reduces State funds in the following contracts:

NC High School Athletics Assoc. (\$122,624)  
 Brain Injury Assoc. of NC (\$25,000)  
 Charlotte/Meck Hospital Author. (\$63,000)  
 UNC-CH Core Indicator Project (\$63,448)  
 UNC-CH School of Social Work (\$75,000)

None of the listed contracts provide direct services.

**52 Inflationary Adjustments**

(\$3,102,983) R (\$3,181,790) R

Reduces inflation built into the continuation budget associated with utilities, vehicles, communications, and equipment. This reduction does not include inflation for direct care services in the state institutions.

**53 Mental Retardation Center Outreach**

(\$268,664) R (\$268,664) R

Reduces expenditures for state-operated mental retardation centers by decreasing outreach expenditures by 15%.

**54 Autism Funds**

\$280,000 R \$280,000 R

Provides funds for the operation of Residential Services Inc. to provide residential services to autistic children.

**( 8.0) Division of Medical Assistance**

**55 Revised Medicaid Forecast**

(\$219,006,684) R (\$321,567,979) R

Reduces state appropriations for the Medicaid Program based on the revised forecast for SFYs 2003-04 and 2004-05.

**56 Cost Avoidance Model for Pharmacy Claims**

(\$5,593,400) R (\$9,588,686) R

Establishes a cost avoidance model for pharmacy claims to ensure that claims are billed first to third-party insurers and Medicaid is the payer of last resort.



Conference Report on the Continuation, Capital, and Expansion Budget	FY 2003-04		FY 2004-05	
<b>57 Inflationary Increases for Rate Based Services</b>	(\$16,153,478)	R	(\$27,691,677)	R
Eliminates inflationary increases for the following fee-based services: hospitals, nursing facilities, physicians, other health care providers, dental, home health, ambulance, personal care, chiropractic, podiatry, optical, high risk intervention, durable medical equipment, home infusion therapy, adult care home personal care services, and ambulatory surgical centers.				
<b>58 Inflationary Increases for Public Providers</b>	(\$6,349,976)	R	(\$10,885,672)	R
Eliminates inflationary increases for the following public providers: health departments, area mental health programs, and county transportation services.				
<b>59 Inflationary Increases for Fee Based Services</b>	(\$19,132,403)	R	(\$32,197,738)	R
Eliminates inflationary increases for the following fee based services: outpatient hospital services, freestanding and rural health clinics, federally qualified health clinics, community alternative programs, lab and X-ray services, prescription drugs, case management, hearing aids, emergency room services, Medicare crossover payments, HMO premiums, hospice services, and adult care home transportation.				
<b>60 Inflationary Adjustments</b>	(\$8,583,439)	R	(\$13,231,168)	R
Eliminates the inflationary adjustments for the administrative operations of the Division of Medical Assistance.				
<b>61 Drug Utilization Management</b>	(\$26,238,779)	R	(\$36,738,779)	R
Expands implementation of the various drug implementation measures to contain the cost of prescription drugs.				
<b>62 Medicaid Reserve Funds</b>	(\$62,500,000)	NR	(\$62,500,000)	NR
Transfers funds from the G.S.143-23.2 reserve to support current services and to reduce appropriations.				
<b>63 State Transitional Medicaid Coverage</b>	(\$412,322)	R	(\$21,135,628)	R
Eliminates twelve month State Transitional Medicaid Coverage for families and children who are working and no longer receiving welfare payment. Effective September 1, 2003.				
<b>64 Federal Fiscal Relief</b>	(\$191,600,000)	NR		
Reduces state appropriations for the Medicaid Program based on the receipt of increased federal reimbursement under federal fiscal relief.				
<b>65 Home Care Personal Care Services</b>	\$3,001,253	R	\$3,001,253	R
Provides funds to maximize federal Medicaid matching funds for Home Care Personal Care Services.				
<b>66 Carolina ACCESS II and III</b>	\$1,000,000	R	\$1,000,000	R
Expands the Carolina ACCESS II and III programs to additional counties.				

Conference Report on the Continuation, Capital, and Expansion Budget	FY 2003-04		FY 2004-05	
<b>( 9.0) NC Health Choice</b>				
<b>67 NC Health Choice</b>	\$12,166,372	R	\$18,114,915	R
Provides increased funding for NC Health Choice Program.				
<b>(10.0) Divisions of Services for the Blind and Services for Deaf &amp; Hard of Hearing</b>				
<b>68 Administrative Efficiencies</b>	(\$180,838)	R	(\$180,838)	R
Eliminates two filled and two vacant positions at the Division of Services for the Deaf and the Hard of Hearing. Consolidates further administrative functions within the Division and Department. Eliminates funding for the State-Wide Interpreter Classification Program which was made obsolete by G.S. 90D, The Interpreter/Transliterater Licensure Act. The following positions will be eliminated: 1.0 Computing Consultant II, 1.0 Staff Development Specialist II, 1.0 Administrative Officer II, and 1.0 Office Assistant III.				
	-4.00		-4.00	
<b>69 State Assistance for the Blind</b>	(\$50,000)	R	(\$50,000)	R
Reduces excess funding for Special Assistance for the Blind program.				
<b>(11.0) Division of Vocational Rehabilitation</b>				
<b>70 Independent Living Program</b>	(\$300,000)	R	(\$300,000)	R
Reduces funding for the Independent Living Program to a level consistent with historical expenditures.				
<b>71 Inflationary Adjustments</b>	(\$303,214)	R	(\$318,729)	R
Eliminates some of the inflationary adjustments for the Division of Vocational Rehabilitation. Motor vehicles and T1 line are specifically targeted.				
<b>(12.0) Office of the Secretary</b>				
<b>72 Inflationary Adjustments - Controller's Office</b>	(\$1,044)	R	(\$2,127)	R
Eliminates inflationary increases for water and sewer, electricity, and natural gas utilities.				
<b>73 Division of Information Resource Management</b>	(\$23,014,348)	R	(\$23,836,118)	R
Eliminates operating budget adjustments for the Division of Information Resource Management. Affects the following line items; data processing services, computer software, data processing supplies, maintenance agreements for data processing equipment and software, telecommunication data charges, and information technology services.				
<b>74 Vacant Position Elimination</b>	(\$25,488)	R	(\$25,488)	R
Eliminate one HR Planner Supervisor II position in the Office of Research, Demonstration, and Rural Health. (This position is funded with 50% state funds and 50% federal funds)				
	-0.50		-0.50	

Conference Report on the Continuation, Capital, and Expansion Budget	FY 2003-04		FY 2004-05	
<b>75 SIPS Rate Reduction</b>	(\$3,000,000)	R	(\$3,000,000)	R
Requires the Department to renegotiate rates with SIPS for data storage and other data processing services.				
<b>76 Group Home Tracking System</b>	\$159,600	R	\$159,600	R
Funds the operating costs associated with compliance of G.S. 143B-139.1. General statute requires DHHS to track children placed in group homes and therapeutic foster care home settings. The funds will pay for data services and maintenance of a automated tracking system.				
<b>77 More at Four</b>	\$7,400,000	R	\$7,400,000	R
Expands the More At Four program by adding 2,400 slots to the program, bringing the total number of available slots to 10,000. The nonrecurring funding of \$1,200,000 will provide \$500 per slot for start-up expenses.				
	\$1,200,000	NR		
<b>Total Legislative Changes</b>	<b>(\$329,541,328)</b>	<b>R</b>	<b>(\$497,199,502)</b>	<b>R</b>
	<b>(\$256,575,000)</b>	<b>NR</b>	<b>(\$62,500,000)</b>	<b>NR</b>
<b>Total Position Changes</b>	<b>-3.17</b>		<b>-3.17</b>	
<b>Revised Budget</b>	<b>\$3,379,819,647</b>		<b>\$3,859,517,744</b>	



**NATURAL  
&  
ECONOMIC RESOURCES**

**Section H**



## Agriculture and Consumer Services

GENERAL FUND
--------------

Recommended Budget	FY 2003-04		FY 2004-05	
	\$51,041,728		\$51,093,029	
<b>Legislative Changes</b>				
<b>Administration</b>				
<b>1 Eliminate Filled Position</b>	(\$13,204)	R	(\$26,409)	R
Eliminate 1.0 filled effective December 31, 2003 when the Department starts using the Mail Service Center.	-1.00		-1.00	
Mail Clerk #12910 (1.0)				
<b>2 Reduce Southern Dairy Compact</b>	(\$20,000)	R	(\$20,000)	R
Reduce appropriation to the Southern Dairy Compact.				
<b>3 Reduce Operating Support</b>				
Reduce various operating line items.	(\$1,500)	NR		
<b>4 Reduce Budget and Finance Operating Support</b>				
Reduce various operating line items	(\$8,000)	NR		
<b>Agricultural Policy &amp; Development</b>				
<b>5 Reduce Operating Support</b>				
Reduce various operating line items.	(\$4,000)	NR		
<b>Agricultural Statistics</b>				
<b>6 Reduce Operating Support</b>				
Reduce various operating line items.	(\$7,500)	NR		
<b>Agronomic Services</b>				
<b>7 Eliminate Vacant Position</b>	(\$46,449)	R	(\$46,449)	R
Eliminate 1.0 vacant position.	-1.00		-1.00	
Regional Agronomist (1.0) (\$46,449)				
<b>Aquaculture</b>				
<b>8 Reduce Operating Support</b>				
Reduce various operating line items.	(\$2,500)	NR		

Conference Report on the Continuation, Capital, and Expansion Budget

FY 2003-04

FY 2004-05

**Emergency Programs**

**9 Eliminate Vacant Position**

Eliminate 1.0 vacant position.

Animal Health Tech I (1.0) (\$42,966)

(\$42,966) R (\$42,966) R  
-1.00 -1.00

**Food & Drug**

**10 Eliminate Vacant Position**

Eliminate 1.0 vacant position.

Facility Maintenance Supervisor II (1.0) (\$52,451)

(\$52,451) R (\$52,451) R  
-1.00 -1.00

**11 Eliminate Vacant Position**

Eliminate 1.0 vacant Commercial Fertilizer position.

Chemistry Tech II (1.0) (\$30,338)

(\$30,338) R (\$30,338) R  
-1.00 -1.00

**12 Eliminate Vacant Position**

Eliminate 1.0 vacant position in the Food Protection section.

Agricultural Microbiologist I (1.0) (\$39,043)

(\$39,043) R (\$39,043) R  
-1.00 -1.00

**13 Eliminate Filled Position**

Eliminate 1.0 filled position in the Food and Drug Protection effective Aug. 1, 2003.

Chemist II (1.0) (\$68,963)

(\$63,214) R (\$68,963) R  
-1.00 -1.00

**14 Reduce Pesticide Formulation Lab Support**

Reduce various operating line items. Phase out of work performed by this lab through a transfer of personnel to food and drug lab.

(\$58,421) NR

**15 Increase Pesticide Fees**

Increase 6 fees in the Pesticide division including pesticide registration, aircraft inspection, and applicator, dealer and consultant license fees.

(\$890,010) R (\$890,010) R

**16 Eliminate Filled Position**

Eliminate 1.0 filled position in the Commercial Feed and Pet Food Analysis section effective Aug. 1, 2003.

Agricultural Microbiologist II (1.0) (\$55,605)

(\$50,971) R (\$55,605) R  
-1.00 -1.00

**Food Distribution**

**17 Eliminate Filled Position**

Eliminate 1.0 filled position.

Stock Clerk (1.0) (\$30,297)

(\$30,297) R (\$30,297) R  
-1.00 -1.00

**18 Reduce Operating Support**

Reduce various operating line items.

(\$10,000) NR

Agriculture and Consumer Services

Page H 2



Conference Report on the Continuation, Capital, and Expansion Budget	FY 2003-04		FY 2004-05	
<b>Livestock</b>				
<b>19 Eliminate Filled Position</b>	(\$63,180)	R	(\$63,180)	R
Eliminate 1.0 filled swine position.				
	-1.00		-1.00	
Agricultural Marketing Specialist - Swine Grading (1.0) (\$63,180)				
<b>Marketing</b>				
<b>20 Eliminate Filled Position</b>	(\$34,395)	R	(\$34,395)	R
Eliminate 1.0 filled position.				
	-1.00		-1.00	
Office Assistant III (1.0) (\$34,395)				
<b>21 Increased Budgeted Receipts</b>	(\$50,000)	R	(\$50,000)	R
Increase budgeted receipts at the Western and Triad Farmers Markets and the Eastern Agricultural Center.				
<b>22 Reduce Travel Expenses</b>	(\$23,000)	NR	(\$23,000)	NR
Continue reduction to travel budget.				
<b>23 Eliminate Vacant Positions</b>	(\$92,892)	R	(\$92,892)	R
Eliminate 3.0 vacant positions.				
	-3.00		-3.00	
Maintenance Mechanic (1.0) (\$27,979)				
Agricultural Commodity Inspector (1.0) (\$30,581)				
Statistical Assistant V (1.0) (\$34,332)				
<b>24 Reduce Operating Support</b>	(\$166,430)	R	(\$239,875)	R
Reduce various operating line items.				
<b>Plant Industry</b>				
<b>25 Shift Position to Receipt Support</b>	(\$54,184)	R	(\$54,184)	R
Shift 1.0 filled position to receipt support from the Boll Weevil Foundation.				
	-1.00		-1.00	
Boll Weevil Program Manager (1.0) (\$54,184)				
<b>26 Eliminate Plant Protection Operating Support</b>	(\$66,157)	R	(\$66,157)	R
Eliminate operating support for the fire ant program including temporary wages, travel and supplies.				
<b>27 Eliminate Filled Position</b>	(\$51,062)	R	(\$51,062)	R
Eliminate 1.0 filled position in the Seed Testing Section.				
	-1.00		-1.00	
Seed Specialist (1.0) (\$51,062)				
<b>28 Reduce Plant Protection Transfer</b>	(\$13,350)	R	(\$13,350)	R
Reduce transfer to NCSU for honey bee control studies.				

Conference Report on the Continuation, Capital, and Expansion Budget	FY 2003-04		FY 2004-05	
<b>29 Eliminate 2.0 Filled Positions</b>	(\$80,517)	R	(\$80,517)	R
Eliminate 2.0 filled positions.				
	-2.00		-2.00	
Fertilizer Inspector (\$29,693)				
Entomologist (\$50,824)				
<b>30 Increase Nursery Dealer License Fee</b>	(\$85,320)	R	(\$85,320)	R
Increase nursery dealer license fee effective July 1, 2003.				
<b>Property &amp; Construction</b>				
<b>31 Shift Position to Receipt Support</b>	(\$43,143)	R	(\$43,143)	R
Fund shift 1.0 position to state fair receipt support.				
	-1.00		-1.00	
Construction & Renovation Design Tech I (1.0) (\$43,143)				
<b>32 Reduce operating support</b>	(\$1,000)	NR		
Reduce operating line item support.				
<b>Public Affairs</b>				
<b>33 Reduce Funds to the NC Farm Bureau</b>	(\$61,000)	R	(\$61,000)	R
Reduce appropriation to the NC Farm Bureau.				
<b>34 Reduce Operating Support</b>	(\$2,500)	NR		
Reduce various operating line items.				
<b>Research Stations</b>				
<b>35 Eliminate Vacant Positions</b>	(\$41,000)	R	(\$41,000)	R
Eliminate 2.0 vacant positions.				
	-2.00		-2.00	
Agricultural Research Assistant I(1.0) (\$20,500)				
Research Assistant I (1.0) (\$20,500)				
<b>36 Provide Maintenance and Operating Support</b>	\$225,065	R	\$234,358	R
Provide maintenance equipment, personnel, and operating support for Oxford Research Complex.	\$25,000	NR		
<b>Reserves and Transfers</b>				
<b>37 Reduce Natural Gas/Propane Reserve</b>	(\$12,059)	R	(\$12,059)	R
Eliminate balance of natural gas/propane reserve.				
<b>38 Reduce Capital Improvement Reserve</b>	(\$76,642)	NR		
Reduce capital improvement reserve for Cherry Research Farm swine facility in Goldsboro.				
<b>39 Eliminate Laboratory Equipment Reserve</b>	(\$50,000)	R	(\$50,000)	R
Eliminate laboratory equipment reserve.				

Agriculture and Consumer Services

Page H 4

Conference Report on the Continuation, Capital, and Expansion Budget	FY 2003-04		FY 2004-05	
<b>Structural Pest</b>				
<b>40 Increase Budgeted Receipts</b>	(\$10,000)	R	(\$10,000)	R
Increase budgeted receipts.				
<b>41 Reduce Operating Support</b>	(\$16,573)	R	(\$16,573)	R
Reduce various operating line items.				
<b>Veterinary Services</b>				
<b>42 Reduce Operating Support</b>	(\$3,685)	R	(\$3,685)	R
Reduce appropriations for the Robbins Diagnostics Lab.				
<b>43 Reduce Operating Support</b>	(\$24,611)	R	(\$24,611)	R
Reduce various operating line items.	(\$10,389)	NR		
<b>44 Increase Veterinary Fees</b>	(\$177,500)	R	(\$177,500)	R
Increase veterinary fees effective July 1, 2003.				
<b>Weights &amp; Measures</b>				
<b>45 Eliminate Vacant Positions</b>	(\$71,068)	R	(\$71,068)	R
Eliminate 2.0 vacant positions.				
	-2.00		-2.00	
Liquefied Gas Inspector (1.0)	(\$33,034)			
Long Distance Truck Driver (1.0)	(\$38,034)			
<b>46 Shift Position to Receipt Support</b>	(\$37,416)	R	(\$37,416)	R
Shift 1.0 position to Highway Fund receipt support.				
	-1.00		-1.00	
Standards Inspector II (1.0)	(\$37,416)			
<b>47 Reduce Operating Support</b>	(\$6,500)	R	(\$6,500)	R
Reduce various operating line items.				
<b>Total Legislative Changes</b>	<b>(\$2,365,920)</b>	<b>R</b>	<b>(\$2,453,660)</b>	<b>R</b>
	<b>(\$180,452)</b>	<b>NR</b>	<b>(\$23,000)</b>	<b>NR</b>
<b>Total Position Changes</b>	<b>-24.00</b>		<b>-24.00</b>	
<b>Revised Budget</b>	<b>\$48,495,356</b>		<b>\$48,616,369</b>	

Labor

GENERAL FUND

Recommended Budget	FY 2003-04	FY 2004-05
<b>Legislative Changes</b>		
<b>Administration</b>		
<b>48 Reduce Operating; Increase Indirect Cost Receipts</b>	(\$74,000) R	(\$74,000) R
Reduce various operating line items and increase budgeted indirect cost receipts.		
<b>49 Reduce Operating Support</b>	(\$9,599) R	(\$9,599) R
Reduce funds in general cost categories.		
<b>Agricultural Safety and Health</b>		
<b>50 Reduce Travel and Office Supplies.</b>	(\$10,000) R	(\$10,000) R
Reduce funding for travel and office supplies.		
<b>Apprenticeship</b>		
<b>51 Reduce Operating Support</b>	(\$20,000) R	(\$20,000) R
Reduce various operating line items.		
<b>Bureau of Labor Statistics</b>		
<b>52 Eliminate 1.0 Vacant Position and Reduce Operating</b>	(\$17,389) R	(\$17,389) R
Reduce various operating line items and eliminate 1.0 vacant position.	-1.00	-1.00
Data Control Clerk III (1.0)		
<b>Department-Wide</b>		
<b>53 Eliminate Inflationary Increases</b>	(\$35,976) R	(\$35,976) R
Eliminate all allowable inflationary increases.		
<b>Employment Discrimination</b>		
<b>54 Reduce Postage Budget</b>	(\$2,000) R	(\$2,000) R
Reduce postage budget.		
<b>Information Office</b>		
<b>55 Increase Budgeted Indirect Cost Receipts</b>	(\$25,000) R	(\$25,000) R
Increase budgeted indirect cost receipts.		

Labor

Conference Report on the Continuation, Capital, and Expansion Budget	FY 2003-04		FY 2004-05	
<b>Information Technology</b>				
<b>56 Reduce Software Maintenance Costs</b>	(\$35,000)	R	(\$35,000)	R
Reduce maintenance costs associated with software and increase budgeted indirect cost receipts.				
<b>Mine and Quarry</b>				
<b>57 Reduce Operating Support</b>	(\$11,000)	R	(\$11,000)	R
Reduce funds in general cost categories.				
<b>Occupational Safety and Health</b>				
<b>58 Reduce Operating Support</b>	(\$307,208)	R	(\$307,208)	R
Reduce travel, rents, general office supplies, and communications funding.				
<b>59 Reduce Contractual Obligations</b>	(\$5,468)	R	(\$5,468)	R
Reduce funding for contractual obligations for hearings examiners.				
<b>Wage and Hour</b>				
<b>60 Eliminate 3.0 Vacant Positions.</b>	(\$118,501)	R	(\$118,501)	R
Eliminate 3.0 vacant positions.				
	-3.00		-3.00	
Wage and Hour Investigators (2.0)				
Public Information Assistant IV (1.0)				
<b>Total Legislative Changes</b>	<b>(\$671,141)</b>	<b>R</b>	<b>(\$671,141)</b>	<b>R</b>
<b>Total Position Changes</b>	<b>-4.00</b>		<b>-4.00</b>	
<b>Revised Budget</b>	<b>\$13,265,454</b>		<b>\$13,274,104</b>	

Environment & Natural Resources

GENERAL FUND

Recommended Budget	FY 2003-04		FY 2004-05
	\$153,070,901		\$157,263,823

Legislative Changes

Administration and Regional Offices

<b>61 Eliminate Vacant Positions</b>	(\$85,361)	R	(\$85,361)	R
Eliminate 1.0 vacant position in the Office of Public Affairs and 1.0 vacant position in the Regional Offices.	-2.00		-2.00	
Office Assistant (\$36,824)				
Information and Communications Specialist (\$48,537)				
<b>62 Reduce Operating Support</b>	(\$69,252)	R	(\$69,252)	R
Reduce various operating line items for Wetlands Restoration Program.				
<b>63 Eliminate Position</b>	(\$67,833)	R	(\$67,833)	R
Eliminate 1.0 position that will be vacant before June 30, 2003.	-1.00		-1.00	
Field Office Manager (\$67,833)				
<b>64 Reduce Operating Support</b>	(\$200,000)	R	(\$200,000)	R
Reduce various operating line items.				
<b>65 Eliminate Bloodborne Pathogen Funding</b>	(\$26,360)	R	(\$26,360)	R
Eliminate bloodborne pathogen funding				
<b>66 Eliminate 1.0 Position</b>	(\$64,498)	R	(\$64,498)	R
Eliminate 1.0 position.				
Telecommunications System Analyst I (\$64,498)				

Aquariums

<b>67 Reduce Operating Support</b>	(\$42,138)	R	(\$42,138)	R
Reduce various operating line items.				

Coastal Management

<b>68 Eliminate Filled Position</b>	(\$30,400)	R	(\$30,400)	R
Eliminate 1.0 filled position.	-1.00		-1.00	
Processing Assistant V (\$30,400)				

Conference Report on the Continuation, Capital, and Expansion Budget	FY 2003-04		FY 2004-05	
<b>69 Shift Position to Receipt Support</b>	(\$32,741)	R	(\$32,741)	R
Shift 1.0 position to receipt support.				
Program Assistant V (\$32,741)	-1.00		-1.00	
<b>70 Reduce Board Operating Support</b>	(\$11,920)	R	(\$11,920)	R
Reduce operating support for Coastal Management Board.				
Compensation to Board Members (\$2,500)				
Board travel and subsistence (\$9,420)				
<b>71 Reduce Planning Grant Funds</b>	(\$73,481)	R	(\$73,481)	R
Reduce appropriation for land use planning grants.				
<b>72 Reduce Operating Support for Buckridge Reserve</b>	(\$15,000)	R	(\$15,000)	R
Reduce various operating line items for Buckridge Reserve.				
<b>73 Fund Shift Position to Federal Grants</b>	(\$64,843)	R	(\$64,843)	R
Fund shift 1.0 position to federal grants.				
Environmental Supervisor III (0.5) (\$37,517)	-1.00		-1.00	
Environmental Supervisor I (0.5) (\$27,326)				
<b>Environmental Health</b>				
<b>74 Reduce Aid to Locals</b>	(\$33,304)	R	(\$33,304)	R
Reduce aid to locals for child lead program.				
<b>75 Eliminate Filled Position</b>	(\$74,685)	R	(\$74,685)	R
Eliminate 1.0 filled position				
Regional Supervisor 1 (\$74,685)	-1.00		-1.00	
<b>Forest Resources</b>				
<b>76 Reduce Operating Support</b>	(\$217,449)	R	(\$217,449)	R
Reduce operating line items.				
Aerial Photography (\$32,800)				
Other (\$184,649)				
<b>77 Reduce Equipment/Vehicles</b>	(\$1,520,287)	NR		
Reduce funding for equipment and vehicles.				
<b>78 Shift Bladen Lake Operating Support to Receipts</b>	(\$100,000)	NR		
Shift various Bladen Lake operating line items to receipt support.				
<b>79 Reduce Holiday Pay.</b>	(\$31,544)	NR		
Reduce holiday pay.				

Environment & Natural Resources

Page H 9

Conference Report on the Continuation, Capital, and Expansion Budget	FY 2003-04		FY 2004-05	
<b>80 Reduce Funding for Autos and Tractors</b>	(\$40,000)	R	(\$40,000)	R
Reduce funding for autos and tractors.				
<b>Land Resources</b>				
<b>81 Reduce Computer/Data Processing</b>	(\$34,741)	R	(\$34,741)	R
Reduce computer/data processing funds.				
<b>82 Reduce Aid to Counties</b>	(\$50,000)	R	(\$50,000)	R
Reduce aid to counties.				
<b>83 Reduce Operating Support</b>	(\$100,813)	R	(\$100,813)	R
Reduce various operating line items.				
<b>84 Shift Positions to Receipt Support</b>	(\$53,547)	R	(\$53,547)	R
Shift 1.75 Geodetic Survey Technician positions to federal funds.	-1.75		-1.75	
Geodetic Survey Technician (1.00) (\$30,611)				
Geodetic Survey Technician (0.75) (\$22,936)				
<b>85 Reduce Contracted Services</b>	(\$57,710)	R	(\$57,710)	R
Reduce funds for Geodetic Survey contracted services.				
<b>Parks and Recreation</b>				
<b>86 Establish Vehicle Access Fee at Ft. Fisher</b>	(\$36,857)	R	(\$36,857)	R
Establish a vehicle access fee at Ft. Fisher.				
<b>87 Increase State Park Fees</b>	(\$233,246)	R	(\$438,177)	R
Increase state park fees effective January 1, 2004.				
<b>88 Eliminate Vacant Position</b>	(\$31,305)	R	(\$31,305)	R
Eliminate 1.0 vacant position.	-1.00		-1.00	
Personnel Assistant (\$31,305)				
<b>89 Reduce Operating Support</b>	(\$86,462)	NR		
Reduce various line items.				
<b>90 Reduce Seasonal Staff</b>	(\$144,000)	R	(\$144,000)	R
Reduce seasonal staff.				
<b>Pollution Prevention</b>				
<b>91 Shift Position to Receipt Support</b>	(\$19,377)	R	(\$19,377)	R
Shift 0.4 position to grant support.	-0.40		-0.40	

Environment & Natural Resources

Page H 10



Conference Report on the Continuation, Capital, and Expansion Budget	FY 2003-04		FY 2004-05	
<b>92 Shift Positions to Solid Waste Trust Fund</b>	(\$66,980)	R	(\$66,980)	R
Shift 1.46 positions to Solid Waste Trust Fund.				
	-1.46		-1.46	
Position #29025 (1.00) (\$44,861)				
Position #29028 (0.46) (\$22,119)				
<b>93 Reduce Operating Support</b>	(\$66,747)	R	(\$66,747)	R
Reduce various operating line items.				
<b>Reserves and Transfers</b>				
<b>94 Reduce Water Quality Workgroup</b>	(\$100,000)	R	(\$100,000)	R
Reduce appropriation to Water Quality Workgroup by 53%.				
<b>95 Establish an Express Permitting Program</b>	\$500,000	NR		
Operating support and 8.0 positions for the establishment of a pilot express permitting program.	8.00			
<b>96 Reduce Air Permit Fund</b>	(\$77,918)	NR		
Reduce department's general fund appropriation for the 2003-2004 fiscal year and replace funds with a one-time transfer from the Air Permits Funds, thereby reducing the fund's cash balance.				
<b>97 Reduce Sleep Products Fund</b>	(\$200,000)	NR		
Reduce department's general fund appropriation for the 1999-2000 fiscal year and replace the funds with a one-time transfer from the Sleep Products Fund, thereby reducing the fund's cash balance.				
<b>Soil and Water</b>				
<b>98 Eliminate Animal Waste Cost Share Program</b>	(\$117,500)	NR		
Eliminate funding for Animal Waste Cost Share program.				
<b>99 Eliminate Vacant Positions</b>	(\$91,371)	R	(\$91,371)	R
Eliminate 2.0 vacant positions.				
	-2.00		-2.00	
Soils Survey Supervisor (1.0) (\$49,622)				
Soil & Water Cons. Regional Coordinator (1.0) (\$41,749)				
<b>100 Reduce Operating Support</b>	(\$57,788)	R	(\$57,788)	R
Reduce various operating line items.				
<b>Waste Management</b>				
<b>101 Increase Hazardous Waste Fee</b>	(\$405,000)	R	(\$405,000)	R
Increase hazardous waste fees for large and small quantity generators.				

Conference Report on the Continuation, Capital, and Expansion Budget	FY 2003-04		FY 2004-05	
<b>102 Fund Shift Positions to Grants</b>	(\$110,537)	R	(\$110,537)	R
Fund shift 2.0 positions to grants.				
	-2.00		-2.00	
Waste Management Specialist (1.0) (\$48,943)				
Environmental Supervisor (1.0) (\$61,594)				
<b>103 Reduce Operating Support</b>	(\$45,265)	R	(\$45,265)	R
Reduce various operation line items.				
<b>Water Quality</b>				
<b>104 Shift Position to Receipt Support</b>	(\$37,065)	R	(\$37,065)	R
Shift 1.0 position to receipt support.				
Office Assistant IV (\$37,065)	-1.00		-1.00	
<b>105 Shift Position to Federal Grants</b>	(\$63,887)	R	(\$63,887)	R
Fund shift 1.0 position to federal grants.				
Environmental Supervisor II (\$63,887)	-1.00		-1.00	
<b>106 Reduce Funding For Temporary Personnel</b>	(\$33,280)	R	(\$33,280)	R
Reduce funding for temporary personnel.				
<b>107 Fund Shift 4.0 Positions</b>	(\$159,700)	R	(\$159,700)	R
Fund shift 4.0 positions.				
Computer Operator (\$34,622)	-4.00		-4.00	
Hydrogeologist (\$47,988)				
Processing Assistant (\$28,280)				
Environmental Biologist II (\$48,810)				
<b>108 Eliminate 1.0 Position</b>	(\$53,182)	R	(\$53,182)	R
Eliminate 1.0 Position				
Information Communication Specialist III (\$53,182)	-1.00		-1.00	
<b>109 Reduce Operating Support</b>	(\$11,721)	R	(\$11,721)	R
Reduce various operating line items.				
<b>Zoo</b>				
<b>110 Eliminate Vacant Position</b>	(\$50,768)	R	(\$50,768)	R
Eliminate Facility Maintenance Manager II.				
	-1.00		-1.00	

Conference Report on the Continuation, Capital, and Expansion Budget	FY 2003-04		FY 2004-05	
<b>111 Shift Positions to Receipt Support</b>	(\$196,730)	R	(\$196,730)	R
Shift 6.50 positions to receipt support.				
	-6.50		-6.50	
Zoo Tram System Supervisor (1.0)	(\$30,561)			
Zoo Security Chief (1.0)	(\$32,974)			
Housekeeping Supervisor III (1.0)	(\$28,971)			
Supply Store Manager I (1.0)	(\$39,262)			
Office Assistant IV (1.0)	(\$22,607)			
Housekeeping Team Leader (1.0)	(\$22,607)			
Housekeeper (0.5)	(\$11,442)			
<b>112 Reduce Operating Support</b>	(\$400,000)	R	(\$400,000)	R
Reduce various operating line items.				
<b>113 Reduce Workers' Compensation</b>	(\$400,000)	R	(\$400,000)	R
Reduce workers' compensation.				
<b>Total Legislative Changes</b>	(\$4,260,882)	R	(\$4,465,813)	R
	(\$1,633,711)	NR		
<b>Total Position Changes</b>	-22.11		-30.11	
<b>Revised Budget</b>	\$147,176,308		\$152,798,010	

**Environment & Natural Resources - Clean Water Management Trust Fund**

GENERAL FUND

	FY 2003-04		FY 2004-05	
<b>Recommended Budget</b>	\$100,000,000		\$100,000,000	
<b>Legislative Changes</b>				
<b>Clean Water Management Trust Fund</b>				
<b>114 Reduce Appropriation</b>				
Reduce appropriation to the Clean Water Management Trust Fund by 38% in each fiscal year.	(\$38,000,000)	NR	(\$38,000,000)	NR
<b>Total Legislative Changes</b>	(\$38,000,000)	NR	(\$38,000,000)	NR
<b>Total Position Changes</b>				
<b>Revised Budget</b>	\$62,000,000		\$62,000,000	

Commerce

		GENERAL FUND	
Recommended Budget		FY 2003-04	FY 2004-05
		\$35,569,253	\$34,639,574
<b>Legislative Changes</b>			
<b>Business and Industry</b>			
<b>115 Provide funds for the One NC Fund</b>			
Provide General Fund appropriation to the One NC Fund for Johnson and Wales University.		\$1,000,000	NR
<b>Industrial Commission</b>			
<b>116 Budget Over-Realized Receipts</b>			
Budget over-realized receipts from compromised settlement agreement fees, and reduce General Fund appropriation by an equal amount.	(\$519,325)	R	(\$519,325) R
<b>Industrial Financing</b>			
<b>117 Reduce Transfer to the Industrial Development Fund</b>			
Reduce appropriation to the Industrial Development Fund.	(\$249,606)	R	(\$249,606) R
<b>118 Reduce Industrial Development Fund Cash Balance</b>			
Reduce the cash balance of the Industrial Development Fund.	(\$1,169,438)	NR	
<b>Management Information Services</b>			
<b>119 Reduce Computer Hardware Purchases</b>			
Reduce new and replacement computer hardware purchases.	(\$74,480)	R	(\$74,480) R
<b>Marketing and Consumer Services</b>			
<b>120 Reduce Operating Support</b>			
Reduce advertising line item.	(\$300,000)	R	(\$300,000) R
<b>Reserves and Transfers</b>			
<b>121 Job Loss Assistance Fund</b>			
Provide funds to the 3 counties with the highest average unemployment rate for the 2002 calendar year.	\$300,000	NR	
<b>Science and Technology</b>			
<b>122 Reduce Operating Support</b>			
Reduce various operating line items.	(\$50,000)	R	(\$50,000) R

Conference Report on the Continuation, Capital, and Expansion Budget      **FY 2003-04**      **FY 2004-05**

**Travel and Tourism**

<b>123 Reduce Advertising</b>	(\$109,862)	R	(\$109,862)	R
Reduce advertising budget.				

---

**Total Legislative Changes**

(\$1,303,273)	R	(\$1,303,273)	R
(\$869,438)	NR	\$1,000,000	NR

**Total Position Changes**

<b>Revised Budget</b>	<b>\$33,396,542</b>	<b>\$34,336,301</b>
-----------------------	---------------------	---------------------

---

**Commerce - State Aid**

**GENERAL FUND**

	<b>FY 2003-04</b>		<b>FY 2004-05</b>	
<b>Recommended Budget</b>	<b>\$10,266,728</b>		<b>\$10,266,728</b>	
<b>Legislative Changes</b>				
<b>Coalition for Farm and Rural Families</b>				
<b>124 Provide funds Coalition for Farm &amp; Rural Families</b>				
Provide General Fund appropriation to the Coalition for Farm and Rural Families.	\$50,000	NR		
<b>Regional Economic Development Commissions</b>				
<b>125 Increase funding to the Partnerships.</b>	\$955,357	R	\$955,357	R
Increase funds to the Partnerships to return to 2000-2001 funding level.				
<b>Total Legislative Changes</b>	<b>\$955,357</b>	<b>R</b>	<b>\$955,357</b>	<b>R</b>
	<b>\$50,000</b>	<b>NR</b>		
<b>Total Position Changes</b>				
<b>Revised Budget</b>	<b>\$11,272,085</b>		<b>\$11,222,085</b>	





**JUSTICE  
&  
PUBLIC SAFETY**

**Section I**



Judicial

GENERAL FUND

	FY 2003-04		FY 2004-05	
<b>Recommended Budget</b>	<b>\$310,319,781</b>		<b>\$314,116,595</b>	

**Legislative Changes**

**Department-wide**

<b>1 Position Reductions</b>	(\$1,000,000)	R	(\$1,000,000)	R
The AOC will identify \$1 million in personnel and related operational expenses (e.g. travel, training) from eliminating administrative positions throughout the Judicial Department. The Governor recommended \$500,000 from operational savings and a review of internal operations.				
<b>2 AOC- Reserve for Judicial Staffing/Salary Reserve</b>	\$461,198	R	\$461,198	R
Creates a reserve fund in the AOC. AOC is authorized to draw funds from this reserve should the results of the State Personnel study of AOC staffing indicate a need to offset staffing reductions.				
<b>3 Management Flexibility Reserve</b>	(\$3,400,000)	NR		
Creates a management flexibility reserve of \$3.4 million non-recurring reductions.				
<b>4 Reduction in Salary Reserve</b>	(\$1,500,000)	R	(\$1,500,000)	R
The accumulated balance in salary reserve is reduced by \$1.5 million. This replaces a \$1.5 million recurring negative reserve in the Governor's budget.				

**Dispute Settlement Centers**

<b>5 Reduction in Dispute Settlement Centers</b>	(\$131,418)	R	(\$131,418)	R
The budget for dispute settlement centers is reduced by 8.2%. The Governor recommended elimination of this funding (\$1,603,124).				

**District Court**

<b>6 Reduce Specialized Court Programs</b>	(\$84,379)	R	(\$140,379)	R
Reductions reflect priorities set by judicial officials and protects core operations of the Judicial Branch relating to families and children.				
Drug Treatment Court -- \$69,000 R Mecklenburg Drug Court -- \$15,379 R Guardian ad Litem -- \$56,000 (2nd year R)				
<b>7 Budget DC Mediated Settlement Receipts</b>	(\$10,000)	R	(\$10,000)	R
Budget \$10,000 in receipts from the District Court Mediated Settlement Program.				

Conference Report on the Continuation, Capital, and Expansion Budget	FY 2003-04		FY 2004-05	
<b>8 Budget Arbitration Program Receipts</b>	(\$350,000)	R	(\$350,000)	R
Budget receipts from a new fee of \$100 assessed to parties in District Court arbitration cases. Based on the most recent year's data, there would be roughly 3,500 such cases arbitrated.				
<b>Superior Court</b>				
<b>9 Create New Superior Court District</b>	\$35,549	R	\$53,698	R
Appropriates funds to establish a new Superior Court district 19B comprising Moore County. The effective date of this new district is December 1, 2003.				
	1.00		1.00	
<b>Total Legislative Changes</b>	<b>(\$2,579,050)</b>	<b>R</b>	<b>(\$2,616,901)</b>	<b>R</b>
	<b>(\$3,400,000)</b>	<b>NR</b>		
<b>Total Position Changes</b>	1.00		1.00	
<b>Revised Budget</b>	<b>\$304,340,731</b>		<b>\$311,499,694</b>	

Judicial - Indigent Defense

GENERAL FUND

	FY 2003-04		FY 2004-05	
<b>Recommended Budget</b>	<b>\$75,049,607</b>		<b>\$73,116,571</b>	
<b>Legislative Changes</b>				
<b>10 IDS Increase Recoupment Receipts</b>	(\$401,000)	R	(\$401,000)	R
Governor's recommendation: The Office of Indigent Defense Services will target high-volume counties, and seek to raise recoupments rates to 10%, thereby increasing receipts.				
<b>Indigent Persons Attorney Fee Fund</b>				
<b>11 Reduce Continuation Growth</b>	(\$1,383,778)	R	(\$1,383,778)	R
Reduces continuation increase in Indigent Persons Attorney Fee Fund by \$1.3 million in the first year and \$1.6 million in the second year.				
			(\$312,342)	NR
<b>Total Legislative Changes</b>	<b>(\$1,784,778)</b>	<b>R</b>	<b>(\$1,784,778)</b>	<b>R</b>
			<b>(\$312,342)</b>	<b>NR</b>
<b>Total Position Changes</b>				
<b>Revised Budget</b>	<b>\$73,264,829</b>		<b>\$71,019,451</b>	

Justice

GENERAL FUND

	<b>FY 2003-04</b>	<b>FY 2004-05</b>
<b>Recommended Budget</b>	<b>\$73,508,002</b>	<b>\$73,574,376</b>

**Legislative Changes**

**Department-Wide**

<b>12 Management Flexibility</b>	(\$210,000)	R	(\$210,000)	R
The Department will identify \$210,00 recurring in salary and non-salary line item reductions and an additional \$1,375,500 in salary and non-salary line item reductions on a nonrecurring basis.	(\$1,375,500)	NR		
<b>13 Eliminate Positions</b>	(\$630,818)	R	(\$630,818)	R
Governor's recommendation: Eliminate 16 vacant positions in Legal Services, the SBI, and Training Academies for a total of \$630,818.	-16.00		-16.00	

**Law Enforcement - SBI**

<b>14 SBI Equipment</b>	(\$350,000)	R	(\$500,000)	R
Reduce the continuation budget for SBI equipment. The Department may use federal grant funds for equipment replacement.				
<b>15 SBI Auto Replacement</b>	(\$264,535)	R	(\$264,535)	R
Reduce the SBI budget for vehicle replacement. The Department may identify receipts to purchase replacement vehicles. Governor recommended \$264,535 R.				
<b>16 Mainframe Migration</b>	(\$618,071)	R	(\$1,175,964)	R
The Law Enforcement System Migration Project will be completed in FY 2003-04, providing savings from various information technology accounts. This reduction would leave \$789,929 in 03-04 to be used for remaining migration projects, AFIS software maintenance, and mobile data network telecommunications charges. \$664,983 would be available in 04-05 for AFIS software maintenance and mobile data network telecommunications charges due to migration completion and savings from migration to the new environment. The Governor recommended a reduction of \$326,871 in 03-04 and \$781,100 in 04-05.				

Conference Report on the Continuation, Capital, and Expansion Budget

**FY 2003-04**

**FY 2004-05**

**17 Expand SBI Lab Molecular Genetics Section**

\$341,174	R	\$666,253	R
\$641,058	NR		
11.00		11.00	

The Department is directed to study and report on options for increasing the efficiency of the available lab space by increasing its hours of operation. Up to \$516,000 (NR) may be used to expand the physical capacity of the Molecular Genetics Section and purchase equipment.

Effective April 1, 2004, six Forensic Molecular Geneticist I positions and related expenditures are authorized to increase the lab's capacity for DNA testing.

Effective December 1, 2003, if legislation authorizing the expansion of the convicted offender DNA database is ratified, an additional 5 positions are appropriated - 2 Forensic Molecular Geneticist Is, 2 Evidence Control Technicians, and 1 Computer Analyst, plus supplies, equipment, and related expenditures.

---

**Total Legislative Changes**

(\$1,732,250)	R	(\$2,115,064)	R
(\$734,442)	NR		

**Total Position Changes**

-5.00		-5.00	
-------	--	-------	--

**Revised Budget**

\$71,041,310		\$71,459,312	
--------------	--	--------------	--

---

## Juvenile Justice & Delinquency Prevention

GENERAL FUND

<b>Recommended Budget</b>	<b>FY 2003-04</b>	<b>FY 2004-05</b>
	\$135,679,902	\$138,675,409

### Legislative Changes

#### Department-wide

<b>18 Personnel Related Expenses and Fringe Benefits</b>	(\$884,752)	R	(\$884,752)	R
Governor's Recommendation: reduce the continuation budget for various accounts including social security, longevity, holiday and shift premium pay, and disability.				
<b>19 Motor Vehicles</b>	(\$113,991)	R	(\$113,991)	R
Governor's recommendation: reduce the continuation budget for motor vehicles.				
<b>20 Equipment and Maintenance</b>	(\$165,000)	R	(\$115,000)	R
Governor's recommendation: reduce the continuation budget for equipment and software maintenance by \$165,000 in FY 2003-04 and by \$115,000 in FY 2004-05.				
<b>21 Medical Services</b>	(\$336,223)	R	(\$336,223)	R
Governor's recommendation: reduce the continuation budget for medical and hospital services and for employee physicals by \$336,223 R.				
<b>22 Reduce Population Increases</b>	(\$2,145,000)	R	(\$4,620,000)	R
Governor's recommendation: reduce budgeted increases in the continuation funding for the following programs:				

	2003-04	2004-05
Community Beds	(600,000)	(150,000)
Eckerd Camps	(250,000)	(500,000)
Sex Offender Beds	(500,000)	(150,000)
JCPC	(350,000)	(500,000)
Total Appropriation	(1,700,000)	(1,300,000)

Adjust continuation budget increases for the following to maintain program budgets at the FY 2002-03 level and provide \$500,000 additional funding to JCPC formula grants for counties:

	2003-04	2004-05
Community Beds	(700,000)	(1,400,000)
Eckerd Camps	(450,000)	(900,000)
Sex Offender Beds	(670,000)	(1,400,000)
JCPC	(325,000)	(920,000)
Total Appropriation	(2,145,000)	(4,620,000)



Conference Report on the Continuation, Capital, and Expansion Budget	FY 2003-04		FY 2004-05	
<b>23 Budget Prior Year Receipts</b>				
Governor's recommendation: budget, on a one-time basis, projected funds to be returned from JCPC's and other sources.	(\$199,272)	NR		
<b>Detention Center Services</b>				
<b>24 Detention Subsidy Payments</b>	(\$375,000)	R	(\$375,000)	R
Governor's recommendation: reduce continuation budget for detention subsidy payments to the four county operated detention centers.				
<b>25 Detention Center Receipts</b>	(\$100,000)	R	(\$300,000)	R
Governor's recommendation: budget additional receipts to offset general fund appropriations				
<b>Intervention/Prevention</b>				
<b>26 Funding of Nonprofits/Programs</b>	(\$543,559)	R	(\$841,313)	R
Governor's recommendation: reduce the continuation budget for pass through funding to the following nonprofits/programs:				
	2003-04		2004-05	
Governor's One-on-One	(175,402)		(239,132)	
Support Our Students	(206,895)		(421,032)	
Juvenile Assessment Center	(5,250)		(5,250)	
Communities in Schools	(12,162)		(12,162)	
Boys and Girls Clubs	(14,000)		(28,490)	
Project Challenge	(34,200)		(39,597)	
Methodist Group Home	(95,650)		(95,650)	
Total Appropriation	(543,559)		(841,313)	
<b>27 Eliminate Funding for Camp Woodson East/Red Wolf</b>	(\$503,632)	R	(\$503,632)	R
In 2000, the General Assembly authorized the establishment of Camp Woodson East, effective October 1, 2000, and three additional positions at Camp Woodson West for a total budget of \$590,748 R and 24.0 positions. While the three positions were filled at Camp Woodson West, Camp Woodson East has never opened. Therefore, the funds budgeted for Woodson East are eliminated.	-21.00		-21.00	
<b>Total Legislative Changes</b>	(\$5,167,157)	R	(\$8,089,911)	R
	(\$199,272)	NR		
<b>Total Position Changes</b>	-21.00		-21.00	
<b>Revised Budget</b>	<b>\$130,313,473</b>		<b>\$130,585,498</b>	

Correction

GENERAL FUND

	FY 2003-04		FY 2004-05	
<b>Recommended Budget</b>	<b>\$985,276,327</b>		<b>\$991,226,311</b>	
<b>Legislative Changes</b>				
<b>Community Corrections</b>				
<b>28 Reduce Overtime Budget</b>	(\$500,000)	R	(\$610,404)	R
DCC has reduced expenditures for overtime well below the authorized budget of \$1.1 million. The overtime budget is reduced to more closely reflect actual expenditures.				
<b>29 Increase CJPP Funding</b>	\$109,866	R	\$106,351	R
Funding for the Criminal Justice Partnership Program grants to counties is increased to maintain funding at FY 2002-03 level or higher.				
<b>Department-wide</b>				
<b>30 Management Flexibility Reserve</b>	(\$10,757,916)	NR		
DOC is authorized to determine the appropriate salary and non-salary line items that can be reduced for one year.				
<b>31 Personnel Related Expenses</b>	(\$11,976,344)	R	(\$12,683,987)	R
Governor's recommendation: reduce the continuation budget for various accounts, including longevity, overtime, holiday, shift, and call back pay, worker's compensation, and unemployment compensation. These reductions may be offset by use of lapsed salaries.				
<b>32 Motor Vehicles--Special Purpose</b>	(\$224,500)	R	(\$119,000)	R
Governor's recommendation: reduce the continuation budget for special purpose motor vehicles				
<b>33 Computer/Data Processing Service</b>	(\$1,657,108)	R	(\$1,657,108)	R
Governor's recommendation: reduce the continuation budget for ITS services. These reductions may be offset by use of lapsed salaries.				
<b>34 Salary Related Fringe Benefits</b>	(\$882,395)	R	(\$957,972)	R
Governor's recommendation: reduce the continuation budget for social security, retirement, and health benefit increases. These reductions may be offset by use of lapsed salaries.				
<b>35 Reduce DOC Management Positions</b>	(\$298,973)	R	(\$298,973)	R
Governor's recommendation: eliminate three (3) DOC management positions as a result of departmental reorganization				
	-3.00		-3.00	

Conference Report on the Continuation, Capital, and Expansion Budget	FY 2003-04		FY 2004-05	
<b>36 Reduce Vehicle Replacement Funds</b>				
A portion of the vehicle replacement budget is reduced for one year. A total of \$4,450,000 remains in the budget	(\$450,000)	NR		
<b>Parole Commission</b>				
<b>37 Eliminate Position</b>	(\$54,581)	R	(\$54,581)	R
One vacant case analyst position in the Parole Commission is eliminated due to decreasing caseloads.	-1.00		-1.00	
<b>Prisons</b>				
<b>38 Medical Services</b>	(\$5,546,363)	R	(\$5,546,363)	R
Reduce a portion of the continuation budget increase for medical services. The Governor recommended a reduction of (\$7,656,409)	(\$1,200,000)	NR		
<b>39 Correctional Officer Incentives</b>	(\$5,205,871)	R	(\$5,205,871)	R
Governor's recommendation: reduce the continuation budget for weekend shift-pay incentives. These reductions may be offset by use of lapsed salaries				
<b>40 Reduce Contract rate for Mobile Surgery lab</b>	(\$277,500)	R	(\$277,500)	R
DOC contracts with vendor for a mobile surgery lab at Central Prison at a cost of \$967,500 annually. The contract is reduced to reflect actual usage.				
<b>41 Reserves for New Prisons</b>	(\$372,000)	NR		
Reduce funding by \$372,000 (NR) due to a delay in the schedule for opening a new prison in Scotland County				
<b>42 Prison Reserves</b>	(\$150,000)	R	(\$150,000)	R
The non-salary line item budget is approximately \$6.2 million for each new prison. It is recommended that \$50,000 per prison be reduced in such areas as travel, supplies and equipment.				
<b>43 Reduce Staffing at New Prisons</b>	(\$560,849)	R	(\$611,835)	R
Each new prison is staffed with 260 correctional officers. It is recommended that seven correctional officer positions be eliminated from each prison for a total of 21. These positions are primarily activity and utility posts that are not required on the evening and night shift when activity is lowest.	-21.00		-21.00	
<b>44 Overtime Pay</b>	(\$3,364,267)	R	(\$3,364,267)	R
The budget for overtime pay for correctional officers is reduced to more closely reflect actual expenditure levels.	(\$1,742,084)	NR		

Conference Report on the Continuation, Capital, and Expansion Budget

FY 2003-04

FY 2004-05

**45 Expand DNA Collection**

The following items are effective December 1, 2003 only if legislation authorizing the expansion of the DNA database to all convicted felons is ratified:

\$234,981	R	\$326,648	R
\$71,167	NR	\$50,833	NR
7.00		7.00	

Seven Correctional Officer positions are added to the Division of Prisons for the purpose of staffing a new post at each felony diagnostic center to maintain chain of custody of DNA samples taken from convicted offenders entering prison. Additional funding is provided to cover overtime costs of Correctional Officers and nurses who will take DNA samples from the existing inmate felon population.

**Substance Abuse**

**46 John Hyman Program**

Eliminate State funding for the John Hyman program, a non-profit organization that provides substance abuse treatment and counseling

(\$225,000)	R	(\$225,000)	R
-------------	---	-------------	---

---

**Total Legislative Changes**

(\$30,578,904)	R	(\$31,329,862)	R
(\$14,450,833)	NR	\$50,833	NR

**Total Position Changes**

-18.00		-18.00	
--------	--	--------	--

**Revised Budget**

\$940,246,590		\$959,947,282	
---------------	--	---------------	--

---

**Crime Control and Public Safety**

**GENERAL FUND**

	<b>FY 2003-04</b>	<b>FY 2004-05</b>
<b>Recommended Budget</b>	<b>\$28,706,140</b>	<b>\$28,785,824</b>

**Legislative Changes**

**Administration**

**47 CJIN Reserve**

The 1996 Extraordinary Session established a statewide reserve to support the operations of the Criminal Justice Information Network (CJIN) Governing Board. \$100,000 in non-recurring, non-reverting funds were appropriated to the reserve. There remains in this reserve less than \$6,000 of the original appropriation. \$100,000 in non-recurring, non-reverting funds is provided to continue operational support for the CJIN Governing Board.

\$100,000 NR

**Alcohol Law Enforcement**

**48 ALE Office Leases**

Due to the consolidation and closure of three ALE offices, the continuation budget increase for ALE leases is eliminated.

(\$29,447) R (\$29,447) R

**Emergency Management**

**49 Floodplain Mapping**

Governor's recommendation: Convert one position from appropriation to receipt-supported.

(\$92,367) R (\$92,367) R

**Governor's Crime Commission**

**50 Eliminate Roanoke-Chowan Drug Task Force Funding**

Governor's recommendation: eliminate remaining funds in the continuation budget for the drug task force.

(\$125,000) R (\$125,000) R

**National Guard**

**51 State-wide Armory Maintenance and Repair**

Funds are provided to address high priority state-wide armory maintenance and repair needs such as roof replacements, fire alarm systems, removal of underground storage tanks, asbestos surveys, etc.

\$585,000 NR

**Victim & Justice Services**

**52 Victims' Compensation Fund**

(\$400,000) R

(\$400,000) R

Governor's recommendation: reduce the continuation budget for victims' compensation by \$400,000. During the 2002 Short Session, an additional \$2,500,000 was appropriated to the Victims' Compensation Program. Because of this increase in state funding, additional federal funds of approximately \$1 million will be available to offset this recommended reduction.

---

**Total Legislative Changes**

(\$646,814) R

(\$646,814) R

\$685,000 NR

**Total Position Changes**

**Revised Budget**

\$28,744,326

\$28,139,010

---

# **GENERAL GOVERNMENT**

## **Section J**





Administration

GENERAL FUND

<b>Recommended Budget</b>	<b>FY 2003-04</b>	<b>FY 2004-05</b>
	<b>\$56,925,133</b>	<b>\$57,503,556</b>

**Legislative Changes**

**1280 Mail Service Center**

<b>1 Transfer to Receipt-Support</b>	(\$455,325)	R	(\$455,325)	R
Eliminates the appropriation for the Mail Service Center, thereby making the operation totally receipt-supported.	-16.42		-16.42	

**1311 Office of State Personnel**

<b>2 Personnel and Operating Budget Reductions</b>	(\$353,330)	R	(\$353,366)	R
Eliminate eight vacant positions and related fringe benefits, and allowable inflationary items per the Governor's recommended budget adjustments:	-8.00		-8.00	

Positions

- Office Assistant III-#4000-0300-000-350 - (24,912)
- Personnel Assistant IV-#4000-0300-0004-370 - (25,707)
- HR Partner-#4000-1200-0004-482 - (43,885)
- HR Partner-#4000-0100-0004-600 - (43,885)
- HR Partner-#4000-0600-0004-623 - (43,885)
- HR Partner-#4000-0500-0004-627 - (43,885)
- HR Partner-#4000-0500-0004-982 - (43,885)
- HR Partner-#4000-0500-0004-626 - (43,885)

	FY 03-04	FY 04-05
531211 Salaries	(262,434)	(262,434)
531416 Longevity	(30,896)	(30,896)
531511 Social Security	(22,440)	(22,440)
531521 Retirement	(8,889)	(8,889)
531561 Medical Ins Cont.	(23,464)	(23,464)
533600 Supplies	(5,207)	(5,243)

**1771 Veterans Affairs Division**

**3 Veterans' Children Scholarship Program**

(\$3,728,324) R (\$3,728,324) R

Transfers funding for 73% of the scholarships from appropriation-support to receipt-support. That portion will be supported by receipts from the Escheats Fund. The Veterans' Children Scholarship Program provides scholarships for children of veterans who are attending colleges or universities in the State. Historically, approximately 10% of the scholarships has been awarded to students who attended private colleges or universities in the State and 17% has been awards to students who are statutorily entitled to them. The remaining 73% has been awarded competitively based on need. Constitutionally, the Escheats Fund can only be used to aid worthy and needy students who are residents of this State and are enrolled in public institutions in the State. Therefore, the portion of the funding that is being transferred to receipt-support is the 73% that is awarded to students who attend public institutions in the State and who receive a competitive award based on a need determination.

**1861 Commission on Indian Affairs**

**4 Lumbee Memorial Recognition**

\$50,000 NR

Provides partial funding, as recommended by the Governor, for the activities of the Lumbee Tribe Self-Determination Commission, established to resolve the issue of determining the legitimate government of the Lumbee people as a result of the Lumbee Tribe vs. Lumbee Regional Development Association (LRDA) lawsuit.

**Department-wide**

**5 Reduce Inflationary Increases**

(\$382,634) R (\$382,634) R

Reduces the inflationary increases that were included for the following accounts in the Governor's recommended continuation budget.

531461 EPA & SPA Longevity Pay	(\$59,814)
531511 Social Security Contr.	(\$4,584)
531521 Retirement Contr.	(\$1,820)
532210 Energy Service - Electrical	(\$149,636)
532220 Energy Service - Natural Gas/Propane	(\$36,880)
532230 Energy Service - Water & Sewer	(\$8,604)
532241 Energy Service - Fuel Oil	(\$56,307)
532512 Rent/Lease - Buildings/Offices	(\$21,676)
533310 Gasoline	(\$12,825)
533320 Diesel Fuel	(\$254)
533510 Clothing & Uniforms	(\$14,127)
533690 Other Drugs / Pharmacy Supplies	(\$107)
534541 Autos, Trucks, & Buses	(\$16,000)

<b>Total Legislative Changes</b>	<b>(\$4,919,613)</b>	<b>R</b>	<b>(\$4,919,649)</b>	<b>R</b>
	<b>\$50,000</b>	<b>NR</b>		
<b>Total Position Changes</b>	<b>-24.42</b>		<b>-24.42</b>	
<b>Revised Budget</b>	<b>\$52,055,520</b>		<b>\$52,583,907</b>	

Auditor

GENERAL FUND

Recommended Budget	FY 2003-04		FY 2004-05	
<b>Legislative Changes</b>				
<b>1110 Administration</b>				
<b>6 Continuation Budget Reductions</b>	(\$10,130)	R	(\$10,130)	R
Eliminates all increases that were included in the 2003-05 continuation budget per the Governor's recommendation.				
	FY 03-04		FY 04-05	
531461 EPA & SPA Longevity	(\$6,919)		(\$6,919)	
531511 Social Security Cont.	(\$3,211)		(\$3,211)	
<b>1210 Field Audit Division</b>				
<b>7 Continuation Budget Reductions</b>	(\$34,911)	R	(\$44,867)	R
Eliminates all increases that were included in the 2003-05 continuation budget, except those funded with receipts, per the Governor's recommendation.				
	FY 03-04		FY 04-05	
531461 EPA & SPA Longevity	(\$23,410)		(\$33,317)	
532200 Utility/Energy	(\$48)		(\$97)	
532500 Rentals/Leases	(\$11,453)		(\$11,453)	
<b>8 Financial/Audit Services</b>	(\$6,655)	R	(\$6,655)	R
Reduces the operating requirements for financial/audit services (account 532120) as recommended by the Governor.				
<b>9 Smart Start Audits</b>	(\$326,699)	R	(\$326,699)	R
Reduces the contractual services funding for Smart Start audits as recommended by the Governor. Currently Smart Start audits are performed annually. It is recommended that this cycle be changed to every two years, except for those under-performing programs, which would still be audited annually.				
<b>10 Over-realized Receipts</b>	(\$61,831)	R	(\$61,831)	R
Reduces the General Fund appropriation for field audits. The Department has over-realized its budgeted receipts for audit work related to the Single Audit and CAFR. Increasing budgeted receipts in accounts 538301 and 538302 will result in a reduction in the required General Fund appropriation.				
<b>11 Vacant Position Elimination</b>	(\$113,659)	R	(\$113,659)	R
Eliminates the salaries and benefits for the following vacant audit positions.				
	-2.00		-2.00	
Asst. State Auditor III - 3300-0000-0000-212	(\$60,431)			
Asst. State Auditor II - 3300-0000-0000-278	(\$53,228)			

	FY 2003-04		FY 2004-05	
<b>Total Legislative Changes</b>	<b>(\$553,885)</b>	<b>R</b>	<b>(\$563,841)</b>	<b>R</b>
<b>Total Position Changes</b>	<b>-2.00</b>		<b>-2.00</b>	
<b>Revised Budget</b>	<b>\$10,293,801</b>		<b>\$10,293,801</b>	

Cultural Resources

GENERAL FUND

<b>Recommended Budget</b>	<b>FY 2003-04</b> \$54,627,586	<b>FY 2004-05</b> \$54,337,128
---------------------------	-----------------------------------	-----------------------------------

Legislative Changes

1110 Office of the Secretary

12 Operating Budget Adjustments

\$160,046 R \$158,018 R

Eliminate salary and related fringe benefits (11,539) for a vacant .30 FTE Information and Communication Specialist II position (#4801-0100-0001-041), and the following expenditure accounts per the Governor's recommended budget adjustments; and provide funds for local organizations:

	FY 03-04	FY 04-05
531461 Longevity	(80)	(2,049)
531511 Social Security Cont.	(6,162)	(6,162)
531521 Retirement	(3)	(62)
531561 Medical Ins Cont.	(2,170)	(2,170)
536930 Hist., Cult. & Art Orgs	180,000	180,000

1120 Administrative Services

13 Operating Budget Reduction

(\$128) R (\$128) R

Reduce funds for medical insurance contribution (531461) each fiscal year per the Governor's recommended budget adjustments.

1210 Historical Resources Administration

14 Personnel and Operating Budget Reductions

(\$30,327) R (\$30,473) R

Eliminate salary and related fringe benefits of \$30,188 for a vacant Office Assistant IV position (4802-0100-0002-021), and reduce funds for utilities per the Governor's recommended budget adjustments:

	FY 03-04	FY 04-05
532210 Electrical	(132)	(270)
532230 Water & Sewer	(7)	(15)

1220 Scholarly Publications

15 Operating Budget Reductions

(\$1,499) R (\$1,499) R

Reduce funds for medical insurance contribution (531461) and retirement (531521) each fiscal year per the Governor's recommended budget adjustments.

**1230 Archives and Records**

**16 Personnel and Operating Budget Reductions**

(\$109,598) R

(\$112,484) R

Eliminate salary and related fringe benefits of three vacant positions and reduce the following expenditure accounts per the Governor's and subcommittee's recommended budget adjustments:

-3.00

-3.00

Positions

Administrative Asst. I-#4802-0302-0002-115 - (\$27,519)

Records Mgmt. Analy II-#4802-0304-0002-202 - (\$31,089)

Processing Asst. III-#4802-0304-0002-224 - (\$20,672)

	FY 03-04	FY 04-05
531211 Salaries	(79,280)	(79,280)
531461 Longevity	(12,533)	(15,196)
531511 Social Security Cont.	(6,065)	(6,065)
531521 Retirement	(2,782)	(2,863)
531561 Medical Ins Cont.	(8,799)	(8,799)
532210 Electrical	(29)	(58)
532220 Natural Gas/Propane	(63)	(128)
532230 Water & Sewer	(47)	(95)

1241 State Historic Sites

17 Personnel and Operating Budget Reductions

(\$430,547) R (\$372,198) R

Eliminate salary and fringe benefits for the following seven (7) vacant positions, and reduce expenditure accounts per the Governor's recommended budget adjustment, and the additional reductions approved by the subcommittee:

-7.00 -7.00

Positions

- Hist. Interpreter I-#4802-0419-0002-457 - (\$21,343)
- Hist. Sites Spec. I-#4802-0401-002-305, eff. 9/1/03 - (\$28,857)/(\$34,629)
- Hist. Interpreter I-#4802-0417-0002-437 - (\$20,569)
- Hist. Interpreter I-#4802-0424-0002-476 - (\$19,806)
- Hist. Interpreter III-#4802-0403-0002-341 - (\$25,633)
- Grds. Worker I-#4802-0410-0002-390, eff. 8/1/03 - (\$19,429)/(\$21,196)
- Maint. Mech. V I-#4802-0424-0002-474 - (\$31,212)

	FY 03-04	FY 04-05
531211 Salaries	(166,849)	(174,358)
531311 Temp Wages	(101,961)	(72,263)
531461 Longevity	(13,543)	(20,008)
531511 Social Security Cont.	(20,563)	(18,866)
531521 Retirement	(5,466)	(5,889)
531561 Medical Ins Cont.	(19,797)	(20,531)
532210 Electrical	(3,161)	(10,387)
532220 Natural Gas/Propane	(746)	(1,518)
532230 Water & Sewer	(401)	(816)
533900 Other Mat & Supplies	(20,552)	(21,035)
534534 PC Equipment	(8,373)	(8,263)
534539 Other Equip	(9,135)	(8,264)
534541 Motor Vehicle	(60,000)	0
534549 Other Motorized Veh	0	(10,000)



**1242 Tryon Palace**

**18 Operating Budget Reductions**

(\$62,336) R (\$68,004) R

Reduce funds for the following expenditure accounts, per the Governor's recommended budget adjustments:

	FY 03-04	FY 04-05
531311 Temporary Wages	(35,577)	(35,577)
531416 Longevity	(3,846)	(6,274)
531511 Social Security Cont.	(5,100)	(5,285)
531521 Retirement	(117)	(191)
532210 Electrical	(1,727)	(3,522)
532220 Natural Gas/Propane	(643)	(1,308)
532230 Water & Sewer	(504)	(1,025)
532333 Repairs - Other Equip.	(2,426)	(2,246)
532390 Repairs - Other	(4,344)	(4,344)
532490 Maint Agreements	(4,114)	(4,114)
532714 Trans. Grd/In State	(2,549)	(2,549)
532912 Motor Vehicle Ins	(450)	(450)
533110 Gen. Office Supplies	(680)	(680)
533350 Motor Vehicle/Repl. Parts	(259)	(259)

**1243 State Capitol/Visitor Center**

**19 Personnel and Operating Budget Reductions**

(\$29,270) R (\$29,827) R

Eliminate salary and related fringe benefits of a vacant .75 FTE Museum Specialist position (#4802-0600-0002-561), and reduce the following expenditure accounts per the Governor's recommended budget adjustments:

-0.75 -0.75

	FY 03-04	FY 04-05
531416 Longevity	(1,083)	(1,624)
531521 Retirement	(33)	(49)
531561 Medical Ins Cont.	(733)	(733)

**1245 NC Maritime Museum**

**20 Operating Budget Reductions**

(\$12,252) R (\$13,555) R

Reduce funds in the following expenditure accounts per the Governor's recommended budget adjustments:

	FY 03-04	FY 04-05
531416 Longevity	(6,508)	(6,902)
531511 Social security Cont.	(1,024)	(1,055)
531521 Retirement	(198)	(210)
532210 Electrical	(669)	(1,364)
532230 Water & Sewer	(110)	(224)
532512 Rentals/Leases	(3,701)	(3,701)
533410 Food and Dietary	(42)	(99)

**21 Operating Budget Reduction**

(\$5,000) R

Adjust budget with receipts from increased collection of admission fees in FY 04-05.

**1250 Historic Preservation Office**

**22 Personnel and Operating Budget Reductions**

(\$28,062) R (\$28,741) R

Eliminate salary and related fringe benefits of \$22,754 for a vacant .60 FTE Research Historian position (#4802-0702-0002-613); and reduce the following expenditure accounts per the Governor's recommended budget adjustments and the alternate reduction approved by the subcommittee:

-0.60 -0.60

FY 03-04 FY 04-05

531416 Longevity	(2,342)	(2,947)
531511 Social security Cont.	(2,895)	(2,950)
531521 Retirement	(71)	(90)

**23 New Fee-Supported Positions**

\$0 R \$0 R

From receipts derived from the 1% application fee, support three new positions and necessary equipment to assist with review and processing of National Register nominations and tax credit applications.

**1260 Office of State Archaeology**

**24 Personnel Reduction**

(\$51,450) R (\$51,450) R

Eliminate salary and related fringe benefits of an Archaeologist II position (#4802-0701-0002-608), vacant 7/1/03, per the alternate reduction approved by the subcommittee.

-1.00 -1.00

**1290 Western Office**

**25 Operating Budget Reductions**

(\$11,805) R (\$11,818) R

Reduce funds for the following expenditure accounts each fiscal year per the Governor's recommended budget adjustments:

FY 03-04 FY 04-05

531416 Longevity	(2,041)	(2,041)
531521 Retirement	(62)	(62)
532210 Electrical	(13)	(26)
532512 Rentals/Leases	(5,566)	(5,566)
532700 Transportation	(4,150)	(4,150)

**1320 Museum of Art**

**26 Personnel and Operating Budget Reductions**

(\$79,824) R (\$87,327) R

Eliminate two vacant positions - Administrative Sect (#4803-0200-0003-181) and Video Producer II (#4803-0200-0003-119), effective 9/1/03 at a savings of \$66,012 with related fringe benefits; and reduce additional funds for social security contribution (531511) each fiscal year per the Governor's recommended budget adjustments.

-2.00 -2.00

**27 Operating Budget Reduction**

(\$20,000) R

Adjust budget with receipts from admission fees in FY 04-05.

**1330 NC Arts Council**

**28 Operating Budget Reductions**

(\$63,415) R

(\$325,964) R

Reduce funds in the following expenditure accounts and grant program per the Governor's recommended budget adjustment and the alternate reductions approved by the subcommittee:

	FY 03-04	FY 04-05
531416 Longevity	(6,974)	(9,181)
531511 Social Security Cont.	(380)	(849)
531521 Retirement Cont.	(212)	(279)
532140 Information Tech Service	(2,503)	(2,503)
532192 Honorariums	(2,102)	(2,102)
532199 Contracted Services	(7,292)	(7,292)
532390 Repairs-Other	(226)	(226)
532490 Maint Agreement	(531)	(531)
532513 Rent of Conf Room	(113)	(113)
532590 Rent/Lease Other Property	(79)	(79)
532712 Transp-Air Out of state	(299)	(299)
532714 Trans-Ground In State	(3,153)	(3,153)
532715 Trans Ground Out of State	(154)	(154)
532721 Lodging In State	(961)	(961)
532722 Lodging Out of State	(283)	(283)
532724 Meals In State	(882)	(882)
532725 Meals Out of State	(311)	(311)
532727 Misc Subs In State	(170)	(170)
532728 Misc Subs Out of State	(283)	(283)
532731 Bd/Non-Employee Trans	(1,243)	(1,243)
532732 Bd/Non-Employee Subs	(1,191)	(1,191)
532840 Postage	(6,111)	(6,111)
532850 Printing	(6,036)	(6,036)
532942 Other Emp Educational Exp	(350)	(350)
533110 Office Supplies	(676)	(676)
533120 Data Processing Supplies	(226)	(226)
533900 Other Materials & Supplies	(148)	(148)
534511 Furniture-Office	(226)	(226)
534534 Personal Computer & Printer	(791)	(791)
534713 Personal Computer Software	(791)	(791)
535830 Membership dues & Subscrips	(2,228)	(2,228)
536990 Basic Grants Program -	(16,490)	(276,296)

**1340 NC Symphony**

**29 Operating Budget Adjustment**

\$520,000 NR

Provide additional funds for the operation of the Symphony in FY 03-04.

**1410 State Library Services**

**30 Personnel and Operating Budget Reductions**

(\$78,742) R (\$84,315) R

Eliminate salary and related fringe benefits of \$31,529 for a vacant Library Assistant position (#4804-0200-0004-446), and reduce the following expenditure accounts, as recommended by the Governor and subcommittee:

	FY 03-04	FY 04-05
531416 Longevity	(7,193)	(11,656)
531511 Social Security Cont.	(341)	(682)
531521 Retirement	(219)	(354)
531561 Medical Ins Cont.	(598)	(598)
532210 Electrical	(594)	(1,211)
532230 Water & Sewer	(17)	(34)
532512 Rentals/Leases	(1,986)	(1,986)
534630 Libr./Learning Resources	(36,265)	(36,265)

-1.00

-1.00

**1480 State Library Statewide Programs**

**31 Aid to Counties**

\$1,184,453 R \$1,184,453 R

Provide funds to maintain current level of support for county libraries (536960).

**1500 Museum of History**

**32 Personnel and Operating Budget Reductions**

(\$159,114) R (\$163,201) R

Eliminate salary and related fringe benefits of a vacant General Utility Worker position (#4808-0801-0002-791); and reduce the following expenditure accounts per the Governor's and subcommittee's recommended budget adjustments:

	FY 03-04	FY 04-05
531211 Salaries	(18,962)	(18,962)
531416 Longevity	(23,241)	(25,429)
531511 Social Security Cont.	(9,552)	(9,720)
531521 Retirement	(1,058)	(1,124)
531561 Medical Ins Cont.	(2,933)	(2,933)
532199 Contractual Svs	(48,895)	(48,895)
532210 Electrical	(1,118)	(2,281)
532220 Natural Gas/Propane	(273)	(554)
532230 Water & Sewer	(214)	(435)
532850 Printing	(17,871)	(17,871)
533900 Other Mat & Supplies	(23,083)	(23,083)
534534 PC/Printers	(11,914)	(11,914)

-1.00

-1.00

**33 Operating Budget Reduction**

(\$20,000) R

Adjust budget from admission fee receipts for the Museum of History, including the regional museums, in FY 04-05

Conference Report on the Continuation, Capital, and Expansion Budget	FY 2003-04		FY 2004-05	
<b>1992 Reserves</b>				
<b>34 Operating Budget Reduction</b>	(\$115,949)	R	(\$165,017)	R
Eliminate inflationary allowance for reserves per the Governor's recommended budget adjustments, and the alternate reduction approved by the subcommittee.				
<b>Total Legislative Changes</b>	<b>\$80,181</b>	<b>R</b>	<b>(\$248,530)</b>	<b>R</b>
	<b>\$520,000</b>	<b>NR</b>		
<b>Total Position Changes</b>	-17.35		-17.35	
<b>Revised Budget</b>	<b>\$55,227,767</b>		<b>\$54,088,598</b>	

Cultural Resources - Roanoke Island Commission

GENERAL FUND

	FY 2003-04		FY 2004-05	
<b>Recommended Budget</b>	\$1,720,952		\$1,722,606	
<b>Legislative Changes</b>				
<b>2584 Roanoke Island Commission</b>				
<b>35 Operating Budget Reductions</b>	(\$86,047)	R	(\$86,047)	R
Reduce operating budget each fiscal year per the Governor's recommendation.				
<b>Total Legislative Changes</b>	<b>(\$86,047)</b>	<b>R</b>	<b>(\$86,047)</b>	<b>R</b>
<b>Total Position Changes</b>				
<b>Revised Budget</b>	<b>\$1,634,905</b>		<b>\$1,636,559</b>	

General Assembly

GENERAL FUND

	FY 2003-04		FY 2004-05	
<b>Recommended Budget</b>	<b>\$42,858,926</b>		<b>\$46,268,768</b>	
<b>Legislative Changes</b>				
<b>1900 Reserves and Transfers</b>				
<b>36 Salary Adjustment Reserve</b>	(\$747,463)	R	(\$747,463)	R
Reduce salary adjustment reserve funds (537195) each fiscal year per the Governor's recommended budget adjustments.				
<b>37 Reserve for Contingencies</b>	(\$550,000)	R	(\$550,000)	R
Reduce contingency reserve funds (537195) each fiscal year per the Governor's recommended budget adjustments.				
<b>Total Legislative Changes</b>	<b>(\$1,297,463)</b>	<b>R</b>	<b>(\$1,297,463)</b>	<b>R</b>
<b>Total Position Changes</b>				
<b>Revised Budget</b>	<b>\$41,561,463</b>		<b>\$44,971,305</b>	

Governor

GENERAL FUND

<b>Recommended Budget</b>	<b>FY 2003-04</b> \$5,112,108	<b>FY 2004-05</b> \$5,112,933
---------------------------	----------------------------------	----------------------------------

**Legislative Changes**

**1110 Administration**

**38 Operating Budget Reduction**

(\$20,267) R      (\$20,267) R

Reduces the operating budget by eliminating the inflationary increases that were built into the continuation budget. The Governor recommended an unspecified reduction of 5% of the total budget for the Governor's office. This reduction would make up a component of the 5% reduction.

	FY 03-04	FY 04-05
531461 EPA & SPA Longevity Pay	(\$18,312)	(\$18,312)
531511 Social Security Contr.	(\$1,400)	(\$1,400)
531521 Regular Retirement Contr.	(\$555)	(\$555)

**1120 Dues to National Associations**

**39 Reduction in Dues**

(\$214,786) R      (\$214,786) R

Reduces the operating budget by eliminating the inflationary increases that were built into the continuation budget. The Governor recommended an unspecified reduction of 5% of the total budget for the Governor's office. This reduction would make up a component of the 5% reduction.

	FY 03-04	FY 04-05
535800 Other Administrative Exp.	(\$214,786)	(\$214,786)

**1130 Intergovernmental Relations**

**40 Military Commission**

Provides funding for Base Re-alignment and Closure (BRAC) activities.

\$150,000 NR

**1631 Raleigh Executive Residence**

**41 Continuation Budget Reduction**

(\$15,832) R      (\$16,516) R

Reduces the operating budget by eliminating the inflationary increases that were built into the continuation budget. The Governor recommended an unspecified reduction of 5% of the total budget for the Governor's office. This reduction would make up a component of the 5% reduction.

	FY 03-04	FY 04-05
532200 Utility/Energy Services	(\$660)	(\$1,344)
538166 Transfer to CC&PS	(\$15,172)	(\$15,172)



Conference Report on the Continuation, Capital, and Expansion Budget

**FY 2003-04**

**FY 2004-05**

**42 Operating Budget Reduction**

(\$34,584) R

(\$34,584) R

Reduces the operating budget for food supplies and other expenses. The Governor recommended an unspecified reduction of 5% of the total budget for the Governor's office. This reduction would make up a component of the 5% reduction.

	FY 03-04	FY 04-05
533400 Food and Dietary Supplies	(\$17,292)	(\$17,292)
535900 Other Expenses	(\$17,292)	(\$17,292)

**1632 Western Executive Residence**

**43 Continuation Budget Reduction**

(\$136) R

(\$277) R

Reduces the operating budget by eliminating the inflationary increases that were built into the continuation budget. The Governor recommended an unspecified reduction of 5% of the total budget for the Governor's office. This reduction would make up a component of the 5% reduction.

	FY 03-04	FY 04-05
532200 Utility/Energy Services	(\$136)	(\$277)

---

**Total Legislative Changes**

(\$285,605) R

(\$286,430) R

\$150,000 NR

**Total Position Changes**

**Revised Budget**

\$4,976,503

\$4,826,503

---

**Insurance**

**GENERAL FUND**

	<b>FY 2003-04</b>	<b>FY 2004-05</b>
<b>Recommended Budget</b>	<b>\$23,364,277</b>	<b>\$23,395,414</b>

**Legislative Changes**

**1400 Public Services Group**

**44 Continuing Education**

Transfers the funding for the Department's continuing education program from receipt-support to appropriation-support. The amount appropriated for the continuing education program will be reimbursed to the General Fund from the Insurance Regulatory Fund. Any receipts collected for the continuing education program will be deposited into the Insurance Regulatory Fund in accordance with statutory changes that were implemented by S.L. 2002-144. This funding mechanism will sunset on June 30, 2004.

\$786,184 NR

**1500 Office of the Fire Marshal**

**45 Building Code Book Sales**

Transfers the funding for the publication of the building codes from receipt-support to appropriation-support. The amount appropriated for the publication will be reimbursed to the General Fund from the Insurance Regulatory Fund. Any receipts collected from the sale of the code books will be deposited into the Insurance Regulatory Fund in accordance with statutory changes that were implemented by S.L. 2002-144. This funding mechanism will sunset on June 30, 2004.

\$1,688,930 NR

**46 Manufactured Housing**

Transfers the funding for the Department's manufactured housing inspection program from receipt-support to appropriation-support. The amount appropriated for the program will be reimbursed to the General Fund from the Insurance Regulatory Fund. Any receipts collected for the program will be deposited into the Insurance Regulatory Fund in accordance with statutory changes that were implemented by S.L. 2002-144. This funding mechanism will sunset on June 30, 2004.

\$675,490 NR

Conference Report on the Continuation, Capital, and Expansion Budget	FY 2003-04		FY 2004-05	
<b>Department-wide</b>				
<b>47 Personnel Reductions</b>	<b>(\$207,827)</b>	<b>R</b>	<b>(\$207,827)</b>	<b>R</b>
Eliminates the salaries and benefits for the following vacant positions:				
			-5.50	-5.50
Fund 1200 Company Services				
Insurance Co. Examiner I 3905-0000-0000-338	(\$50,118)			
Insurance Co. Examiner II 3927-0000-0000-047	(\$58,965)			
Fund 1300 Technical Services Group				
Processing Asst. IV 3904-0000-0000-246	(\$37,066)			
Fund 1400 Public Services Group				
Processing Asst. III(.5) 3909-0000-0000-833	(\$13,522)			
Processing Asst. III 3908-0000-0008-725	(\$24,078)			
Processing Asst. III 3908-0000-0008-782	(\$24,078)			
<b>Total Legislative Changes</b>	<b>(\$207,827)</b>	<b>R</b>	<b>(\$207,827)</b>	<b>R</b>
	<b>\$3,150,604</b>	<b>NR</b>		
<b>Total Position Changes</b>			<b>-5.50</b>	<b>-5.50</b>
<b>Revised Budget</b>	<b>\$26,307,054</b>		<b>\$23,187,587</b>	

**Insurance - Workers' Compensation for Volunteer Firemen**

GENERAL FUND

	FY 2003-04	FY 2004-05
<b>Recommended Budget</b>	<b>\$4,500,000</b>	<b>\$4,500,000</b>
<hr/>		
<b>Legislative Changes</b>		
<b>1900 Reserves and Transfers</b>		
<b>48 Volunteer Safety Worker's Compensation Fund</b>		
Reduces the General Fund Appropriation to the Volunteer Safety Workers' Compensation Fund on a nonrecurring basis for the second year only.		(\$1,900,000) NR
<hr/>		
<b>Total Legislative Changes</b>		<b>(\$1,900,000) NR</b>
<b>Total Position Changes</b>		
<b>Revised Budget</b>	<b>\$4,500,000</b>	<b>\$2,600,000</b>

Lieutenant Governor

GENERAL FUND

	FY 2003-04		FY 2004-05
<b>Recommended Budget</b>	<b>\$633,293</b>		<b>\$633,293</b>
<hr/>			
<b>Legislative Changes</b>			
<b>1110 Administration</b>			
<b>49 Continuation Budget Reductions</b>	(\$31,571)	R	(\$31,571) R
<p style="margin-left: 20px;">The Governor recommended that all allowable inflationary and continuation items built into the Lt. Governor's budget be removed.</p>			
<hr/>			
<b>Total Legislative Changes</b>	<b>(\$31,571)</b>	<b>R</b>	<b>(\$31,571) R</b>
<hr/>			
<b>Total Position Changes</b>			
<b>Revised Budget</b>	<b>\$601,722</b>		<b>\$601,722</b>

Office of Administrative Hearings

GENERAL FUND

	FY 2003-04	FY 2004-05
<b>Recommended Budget</b>	<b>\$2,540,719</b>	<b>\$2,542,833</b>

**Legislative Changes**

**1100 Administration and Operations**

**50 Position Eliminations**

(\$83,707) R (\$83,707) R

The Governor recommended eliminating two positions (one filled and one vacant). The salary and benefits included in the Governor's recommended budget were erroneous and when recalculated, actually decreased the position dollar amount. Revised position money calculations are inserted in lieu of the Governor's recommendation. To maintain the Governor's budget reduction level, OAH funds were reduced from other operating expenses. Position eliminations are effective 7/1/03.

-2.00 -2.00

Position (vacant) 8210-1100-0000-027 (\$31,600)  
 Position (filled) 8210-1100-0000-017 (\$52,107)

**51 Increase Federal Receipts**

(\$14,000) R (\$14,000) R

The Governor recommended increasing federal receipts by \$10,000 and the General Assembly increased federal receipts another \$4,000. The cumulative increase in federal receipts approaches the contract total between the Office of Administrative Hearings (OAH) and the Equal Employment Opportunity Commission (EEOC). This change assumes that OAH will close nearly the maximum number of cases.

**52 Reduce Operating Expenses**

(\$33,329) R (\$33,329) R

OAH substituted the following reductions in operating expenses in lieu of the Governor's budget reduction recommended items. These are the accepted substitutions:

531631 Workers Compensation (eliminate increase in continuation budget) (\$20,000)  
 532110 Legal Services (\$ 1,000)  
 532942 Other Employee Education Ex (\$ 2,629)  
 5327xx Travel Expense (\$ 5,000)  
 534630 Library Resources (\$ 2,000)  
 534511 Office Furniture (\$ 2,700)

	FY 2003-04	FY 2004-05
<b>Total Legislative Changes</b>	<b>(\$131,036) R</b>	<b>(\$131,036) R</b>
<b>Total Position Changes</b>	<b>-2.00</b>	<b>-2.00</b>
<b>Revised Budget</b>	<b>\$2,409,683</b>	<b>\$2,411,797</b>

Office of Information Technology Services

INTERNAL SERVICE FUND
--------------------------

Recommended Budget	FY 2003-04	FY 2004-05
	\$0	\$0

**Legislative Changes**

**53 Establish IRMC Appropriated Budget** \$610,367 R

NCGS 147-33.78 sets forth the Information Resource Management Commission's (IRMC) purpose, composition, and responsibilities. NCGS 147-33.79 establishes the IRMC Independent Staff and sets the budget mechanism. Fund 7209 IRMC Independent Staff is used to support the Commission in its research and oversight responsibilities; provide for staff support of the Commission's committees (such as the Technical Architecture and Project Certification Committee (TAPCC), the Information Protection and Privacy Committee (IPPC), and the e-Government Committee); and to provide staff support for the Commission's monthly meetings.

5.00

7209 Info. Resource Mgmt. Commission (IRMC) \$610,367

For the 2004-05 fiscal year, the General Assembly will review and make recommendations regarding the state appropriation to the Office of Information Technology Services. Decisions as to how to budget these funds either through an Internal Service Fund or through the General Fund will be based upon the results of the study as provided by Section 21.1 of this Act.



**54 Establish ITS Appropriated Budget**

\$174,264,326 R

ITS is currently an internal service budget entity. There are currently seven ITS agency funds representing major areas (operations, security, technology and business strategies, customer relations, statewide technology purchasing, financial services, and personnel services).

424.00

Fund 7100 ITS-Administration is used for the CIO functions, agency management, and administrative support services and used to develop and document statewide information technology (IT) procurement standards and processes.

Fund 7110 Customer Public Relations Management is used to provide Help Desk technical assistance to ITS customers, liaison services to key ITS customers, and information to customers and the public.

Fund 7200 Enterprise Technology Strategies is used for research of new and emerging communications and information technologies; to develop the Statewide Technical Architecture policies, standards, and best practices and recommend such to the IRMC; and monitor project implementation.

Fund 7217 Computing Services is used to provide 24/7 operations in the ITS Computer Center and provides hardware, software, and support in client locations; manages mainframe and microcomputer services; provides customer support including systems selection and implementation; and offers distributed computer services across several platforms.

Fund 7224 State Telecommunications is used to conduct research on emerging telecommunications technologies; design, implement, and manage the infrastructure to support the telephonics, video, data, statewide backbone communications, and other technologies; and provide computer connectivity.

Fund 7228 Enterprise Solutions is used to provide statewide common enterprise services such as email and common payment services, web services and to support mainframe applications.

Fund 7230 Security and Business Recovery is used to research trends and facilitate rapid response to cyber-attacks; identify and address network vulnerabilities; and develop IT security standards and provide IT security services to agencies.

Requirements per fund:

7100 ITS - Administration	\$9,181,892
7110 Customer/Public Relat. Mgmt (CPRM)	\$2,006,867
7200 Enterprise Tech. Strat. (former IRM)	\$1,185,882
7217 Computing Services (CS)	\$60,747,056
7224 Telecommunications Services (TS)	\$90,799,077
7228 Enterprise Solutions	\$4,917,501
7230 Security and Business Recovery	\$5,426,051

For the 2004-05 fiscal year, the General Assembly will review and make recommendations regarding the state appropriation to the Office of Information Technology Services. Decisions as to how to budget these funds either through an Internal Service Fund or through the General Fund will be based upon the results of the study as provided by Section 21.1 of this Act.

---

<b>Total Legislative Changes</b>		<b>\$174,874,693</b>	<b>R</b>
<b>Total Position Changes</b>		429.00	
<b>Revised Budget</b>	<b>\$0</b>	<b>\$174,874,693</b>	

---

Revenue

GENERAL FUND

	<b>FY 2003-04</b>	<b>FY 2004-05</b>
<b>Recommended Budget</b>	<b>\$76,720,217</b>	<b>\$77,372,834</b>

**Legislative Changes**

**1600 Administration**

**55 Adjust Operating Budget**

(\$32,473) R      (\$34,578) R

Reduce the following expenditure accounts each fiscal year per the Governor's recommended budget adjustments, and the additional reductions approved by the subcommittee:

	FY 03-04	FY 04-05
531311 Temporary Salaries	(17,252)	(17,252)
531416 Longevity	(11,240)	(13,141)
531511 Social Security Cont.	(3,640)	(3,786)
531521 Retirement Cont.	(341)	(399)

**1602 Security**

**56 Adjust Operating Budget**

(\$40,109) R      (\$41,300) R

Reduce the following Expenditure accounts each fiscal year per the Governor's recommended budget adjustments, and the alternate reductions approved by the subcommittee:

	FY 03-04	FY 04-05
531411 Overtime Pay	(39,240)	(39,240)
531421 Holiday Premium Pay	(974)	(974)
531431 Shift Prem Pay	2,687	2,687
531416 Longevity	(6,141)	(7,217)
531511 Social Security Cont.	4,370	4,287
531521 Retirement	(1,325)	(1,357)
531561 Medical Ins Cont.	514	514

**1603 Personnel**

**57 Adjust Operating Budget**

(\$35,922) R      (\$36,663) R

Reduce the following expenditure accounts each fiscal year per the Governor's recommended budget adjustments, and the alternate/additional reductions approved by the subcommittee:

	FY 03-04	FY 04-05
531311 Temporary Salaries	(31,298)	(31,298)
531511 Social Security Cont.	1,886	1,217
531511 Social Security Cont.	(6,568)	(6,619)
531521 Retirement	58	37

Revenue

**1605 Information Technology Services**

**58 Adjust Call Center and Operating Budget Funds**

(\$1,559,999) R (\$2,096,282) R

To provide operating funds for the Call Center in the 2003-05 Biennium the Governor recommends using the fees collected from Project Collect. The cash balance in the reserve is sufficient to cover the projected operating cost. Funds are to be transferred from the reserve to the General Fund Budget Code as expenditures are incurred. Present projections indicate the center will come on-line on October 1, 2003. Per S.L. 2002-126, Section 22.6(c), the department is to report quarterly to Gov Ops on the status of the Call Center's implementation. The reduction for the Call Center in this Fund is \$1,439,716 in FY 03-04 and \$1,971,413 in FY 04-05. Additionally, the following expenditure accounts will be reduced each fiscal year per the Governor's recommended budget adjustments:

	FY 03-04	FY 04-05
531311 Temporary Salaries	(24,485)	(24,485)
531411 Overtime Pay	(29,654)	(29,654)
531421 Holiday Prem Pay	(1,819)	(1,819)
531431 Shift Prem Pay	(9,531)	(9,531)
531461 Longevity	(30,376)	(34,520)
531511 Social security Cont.	(23,460)	(23,777)
531521 Retirement Cont.	(2,164)	(2,289)
531561 Medical Ins Cont.	1,206	1,206
<b>Call Center Reduction</b>		
532441 Maint-Other Software	(4,200)	(4,200)
532446 Maint-LAN Equip	(9,740)	(9,740)
532447 Maint-PCs & Printer	0	(1,330)
532448 Maint-PC Software	0	(4,800)
532450 Maintenance-Servers	(1,380)	(1,380)
532811 Telephone Services	(904,896)	(1,206,528)
532812 Telecomm Data Charges	(180,000)	(180,000)
532821 Computer/DP Sys	(337,500)	(450,000)
533120 DP Supplies	(2,000)	(2,000)
534534 Computer/Printer Purch	0	(111,435)

**59 Personnel Reduction**

(\$92,942) R (\$92,942) R

Eliminate salary and related fringe benefits of a vacant Applications System Mgr. I position, #4773-0000-0030-010.

-1.00 -1.00

Revenue

**1607 Tax Research**

**60 Adjust Operating Budget**

\$4,449 R \$3,666 R

Adjust funds each fiscal year per the alternate adjustments approved by the subcommittee:

	FY 03-04	FY 04-05
531461 Longevity	1,169	462
531511 Social security Cont.	(1,268)	(1,322)
531521 Retirement	36	14
531561 Medical Ins Cont.	4,512	4,512

**61 Personnel Reduction**

(\$61,865) R (\$61,865) R

Eliminate salary and related fringe benefits of a vacant Statistician II position, #4774-0000-0040-200.

-1.00 -1.00

**1609 Criminal Investigations**

**62 Adjust Operating Budget**

(\$10,176) R (\$11,235) R

Reduce the following expenditure accounts each fiscal year per the Governor's recommended budget adjustments:

	FY 03-04	FY 04-05
531461 Longevity	(6,787)	(7,744)
531511 Social security Cont.	(3,183)	(3,256)
531521 Retirement	(206)	(235)

**63 Personnel Reduction**

(\$57,274) R (\$57,274) R

Eliminate salary and related fringe benefits of a vacant Tax Fraud Investigator position, #4790-0000-0042-013.

-1.00 -1.00

**1621 Corporate, Excise & Insurance**

**64 Adjust Operating Budget**

(\$4,457) R (\$6,275) R

Reduce funds per the alternate reductions approved by the subcommittee:

	FY 03-04	FY 04-05
531311 Temporary Salaries	(10,029)	(10,029)
531511 Social Security Cont.	6,934	5,292
531511 Social Security Cont.	(2,250)	(2,376)
531521 Retirement	211	161
531561 Medical Ins Cont.	677	677

**65 Personnel Reduction**

(\$44,741) R (\$44,741) R

Eliminate salary and related fringe benefits of a vacant Revenue Administrative Officer I position, #4788-0000-0050-202.

-1.00 -1.00

Revenue

**1623 Personal Taxes**

**66 Adjust Operating Budget**

(\$26,140) R (\$26,867) R

Reduce the following expenditure accounts each fiscal year per the Governor's recommended budget adjustments:

	FY 03-04	FY 04-05
531311 Temporary Salaries	(13,699)	(13,699)
531461 Longevity	(5,595)	(6,252)
531511 Social Security Cont.	(4,940)	(4,990)
531521 Retirement	(170)	(190)
531561 Medical Ins Cont.	(1,736)	(1,736)

**1627 Sales & Use**

**67 Adjust Operating Budget**

(\$18,275) R (\$20,020) R

Reduce the following expenditure accounts each fiscal year per the Governor's recommended budget adjustments:

	FY 03-04	FY 04-05
531311 Temporary Salaries	(11,764)	(11,764)
531461 Longevity	(3,675)	(5,252)
531511 Social Security Cont.	(2,724)	(2,844)
531521 Retirement	(112)	(160)

**1629 Property Tax**

**68 Adjust Operating Budget**

(\$14,465) R (\$16,649) R

Reduce the following expenditure accounts each fiscal year per the Governor's recommended budget adjustments, and the additional reductions approved by the subcommittee:

	FY 03-04	FY 04-05
531461 Longevity	(4,458)	(6,432)
531511 Social Security Cont.	(3,571)	(3,722)
531521 Retirement	(136)	(195)
531651 Bd Member Compensation	(4,250)	(4,250)
532712 Transp. Air/Out of State	(300)	(300)
532731 Bd/Non-Emp Transp.	(800)	(800)
532942 Other Emp Educ Exp	(950)	(950)

Revenue

**1643 Taxpayer Assistance**

**69 Adjust Operating Budget**

(\$23,752) R (\$34,213) R

Reduce the following expenditure accounts each fiscal year per the Governor's recommended budget adjustments, and the alternate reductions approved by the subcommittee:

	FY 03-04	FY 04-05
531311 Temp Salaries	(48,835)	(48,835)
531461 Longevity	4,538	(4,912)
531511 Social Security Cont.	8,405	7,681
531521 Retirement	138	(149)
531561 Medical Ins Cont.	12,002	12,002

**1660 Examination & Collection**

**70 Adjust Operating Budget**

(\$135,732) R (\$168,487) R

Reduce the following expenditure accounts each fiscal year per the Governor's recommended budget adjustments:

	FY 03-04	FY 04-05
531311 Temporary Salaries	(84,522)	(84,522)
531461 Longevity	(50,716)	(80,310)
531511 Social Security Cont.	(8,644)	(10,908)
531521 Retirement	(1,537)	(2,434)
531561 Medical Ins Cont.	9,687	9,687

**71 Personnel Reduction**

(\$74,323) R (\$74,323) R

Eliminate salary and related fringe benefits of two (2) vacant positions - Revenue Field Auditor II, #4784-0000-0076-555 (\$48,617), and Processing Assistant IV, # 4784-0000-0076-668 (\$25,706).

-2.00

-2.00

**1661 Project Collect Tax**

**72 Adjust Operating Budget**

(\$541,802) R (\$543,804) R

Transfer 13 positions from General Fund to receipt support using funds available from the collection assistance fee; and reduce the following expenditure accounts each fiscal year per the Governor's recommended budget adjustments, and the alternate adjustment approved by the subcommittee:

-13.00 -13.00

Positions

- Revenue Officer II-#4784-0000-0076-621 - (39,164)
- Revenue Officer II-#4784-0000-0076-622 - (40,486)
- Revenue Officer I-#4784-0000-0076-636 - (33,284)
- Revenue Officer I-#4784-0000-0076-637 - (33,284)
- Revenue Officer I-#4784-0000-0076-638 - (33,284)
- Revenue Officer I-#4784-0000-0076-639 - (33,284)
- Revenue Officer I-#4784-0000-0076-640 - (33,284)
- Revenue Officer I-#4784-0000-0076-641 - (33,284)
- Revenue Officer I-#4784-0000-0076-642 - (33,284)
- Revenue Officer I-#4784-0000-0076-643 - (33,284)
- Revenue Officer I-#4784-0000-0076-644 - (33,284)
- Revenue Officer I-#4784-0000-0076-645 - (33,284)
- Revenue Officer I-#4784-0000-0076-647 - (33,284)

FY 03-04 FY 04-05

531211 Salaries	(445,774)	(445,774)
531461 Longevity	(9,077)	(10,887)
531511 Social Security Cont.	(35,039)	(35,177)
531521 Retirement	(13,783)	(13,837)
531561 Medical Ins Cont	(38,129)	(38,129)

**73 Personnel Reductions**

(\$79,544) R (\$79,544) R

Eliminate salary and related fringe benefits of \$39,772 for each vacant Revenue Officer I position: #4784-0000-0076-639 and #4784-0000-0076-653.

-2.00 -2.00

**1670 Unauthorized Substance Tax**

**74 Adjust Operating Budget**

(\$28,043) R (\$30,741) R

Reduce the following expenditure accounts each fiscal year per the Governor's recommended budget adjustments, and the alternate/additional adjustments approved by the subcommittee:

FY 03-04 FY 04-05

531311 Temporary Salaries	(14,402)	(14,402)
531461 Longevity	(7,221)	(9,659)
531511 Social Security Cont.	(1,408)	(1,594)
531521 Retirement	(219)	(293)
531561 Medical Ins Cont.	682	682
532714 Transp. Grd/In-State	(4,225)	(4,225)
532811 Telephone services	(1,250)	(1,250)

. Revenue



**1681 Administrative Services**

**75 Adjust Operating Budget**

(\$442,018) R (\$486,112) R

In conjunction with the adjustment for the Call Center in Fund 1605, there are additional reductions in Administrative Services. For the 2003-05 Biennium the Governor recommends using the fees collected from Project Collect Tax to support operation of the Call Center that is projected to come on-line October 1, 2003. Per the requirements of S.L. 2002-126, Section 22.6 (c) the department will continue to report on the status of the Call Center to the General Assembly. Of the funds reduced, \$183,180 each fiscal year is allocated to the Call Center.

Additionally, the following expenditure accounts will be reduced each fiscal year per the Governor's recommended budget adjustments, and the alternate/additional reductions approved by the subcommittee:

	FY 03-04	FY 04-05
531311 Temporary Salaries	(12,524)	(12,524)
531411 Overtime Pay	(9,622)	(9,622)
531461 Longevity	(6,082)	(6,943)
531511 Social Security Cont.	(5,033)	(5,099)
531521 Retirement	(477)	(503)
531561 Medical Ins Cont.	8	8
532512 Rentals/Leases	(134,942)	(136,596)
532821 Computer/DP Svs	(77,727)	(119,214)
532860 Advertising	(7,139)	(7,139)
533120 DP Supplies	(5,300)	(5,300)

Call Center Reduction		
532512 Rentals/Leases	(183,180)	(183,180)

**76 Personnel Reduction**

(\$24,479) R (\$24,479) R

Eliminate salary and related fringe benefits of a vacant Processing Assistant III position, #4790-0000-0042-013.

-1.00 -1.00

**1683 Financial Services**

**77 Adjust Operating Budgets**

(\$10,792) R (\$11,271) R

Reduce the following expenditure accounts each fiscal year per the Governor's recommended budget adjustments:

	FY 03-04	FY 04-05
531311 Temporary Salaries	(6,884)	(6,884)
531461 Longevity	(3,313)	(3,746)
531511 Social Security Cont.	(494)	(527)
531521 Retirement	(101)	(114)

Revenue

**1685 Documents & Payments Processing**

**78 Adjust Operating Budget**

(\$298,614) R (\$310,106) R

Reduce the following expenditure accounts each fiscal year per the Governor's recommended budget adjustments:

	FY 03-04	FY 04-05
531311 Temporary Salaries	(239,747)	(239,747)
531461 Longevity	(20,105)	(30,489)
531511 Social Security Cont.	(22,060)	(22,854)
531521 Retirement	(610)	(924)
531561 Medical Ins Cont.	(16,092)	(16,092)

**16XX Project Compliance**

**79 New Program Personnel and Operating Budget**

\$1,595,422 R \$2,107,365 R

Appropriate funds to add 39 positions and operating expenses to implement Project Compliance, effective October 1, 2003. The expansion affects six divisions - Corporate, Excise & Insurance; Personal Taxes; Taxpayer Assistance; Examination & Collection; Information Technology; and Administrative Services. The thirty-nine positions include 2 Revenue Admin Officer III, 9 Revenue Tax Auditor I, 2 Revenue Tax Auditor II, 1 Revenue Field Auditor Supv, 4 Revenue Field Auditor I, 4 Revenue Field Auditor II, 14 Revenue Tax Technicians, and 3 Processing Assistants V with the following expenses:

\$268,615 NR  
39.00 39.00

	FY 03-04	FY 04-05
531211 Salaries	1,213,769	1,618,357
531511 Social Security Cont.	92,854	123,804
531521 Retirement	36,778	49,036
531561 Medical Ins Cont	85,791	114,387
532512 Rentals/Leases	5,400	7,200
532714 Transportation	110,250	147,000
<b>1605 Information Technology</b>		
532447 Maint Agree-PC & Printers	3,276	3,276
532448 Maint Agree-Software	11,154	11,154
534534 PC & Printer Purch	89,215	0
<b>1681 Administrative Services</b>		
532811 Telephone Service	13,650	13,650
533110 Gen Office Supplies	19,500	19,500
534511 Office Furniture	175,500	0
534521 Office Equipment	3,900	0

Conference Report on the Continuation, Capital, and Expansion Budget

**FY 2003-04**

**FY 2004-05**

<b>Total Legislative Changes</b>	<b>(\$2,058,066)</b>	<b>R</b>	<b>(\$2,198,740)</b>	<b>R</b>
	<b>\$268,615</b>	<b>NR</b>		
<b>Total Position Changes</b>	<b>17.00</b>		<b>17.00</b>	
<b>Revised Budget</b>	<b>\$74,930,766</b>		<b>\$75,174,094</b>	

Revenue

Page J 35

Secretary of State

GENERAL FUND

<b>Recommended Budget</b>	<b>FY 2003-04</b> \$8,210,304	<b>FY 2004-05</b> \$8,179,923
---------------------------	----------------------------------	----------------------------------

**Legislative Changes**

**1110 Administration**

<b>80 Continuation Budget Reductions</b>	(\$7,732)	R	(\$7,732)	R
Eliminates the inflationary increases included in the 2003-05 continuation per the Governor's recommendation.				
	FY 03-04		FY 04-05	
531461 EPA & SPA Longevity	(\$7,504)		(\$7,504)	
531521 Regular Retirement Contr.	(\$228)		(\$228)	

**1120 Publications**

<b>81 Continuation Budget Reductions</b>	(\$84)	R	(\$84)	R
Eliminates the inflationary increases included in the 2003-05 continuation budget as recommended by the Governor.				
	FY 03-04		FY 04-05	
531461 EPA & SPA Longevity	(\$81)		(\$81)	
531521 Regular Retirement Contr.	(\$3)		(\$3)	

**1210 Corporations Division**

<b>82 Personnel Reduction</b>	(\$27,560)	R	(\$27,560)	R
Eliminates a vacant Processing Assistant V position (3222-0000-0000-282).				
	-1.00		-1.00	

**1220 Uniform Commercial Code**

<b>83 Personnel Reduction</b>	(\$57,682)	R	(\$57,682)	R
Eliminates the salary and benefits for the following 2 vacant Processing Assistant V positions:				
	-2.00		-2.00	

3222-0000-0000-376	(\$30,122)
3222-0000-0000-338	(\$27,560)

<b>84 Continuation Budget Reductions</b>	(\$33,088)	R	(\$43,707)	R
Eliminates all inflationary increases included in the 2003-05 continuation budget per the Governor's recommendation.				
	FY 03-04		FY 04-05	
531461 EPA & SPA Longevity	(\$5,314)		(\$5,314)	
531521 Reg. Retirement Contr.	(\$162)		(\$162)	
532500 Rental/Leases	(\$27,612)		(\$38,231)	

**1230 Securities Division**

**85 Continuation Budget Reductions**

(\$6,684) R (\$6,684) R

Eliminates all inflationary increases included in the 2003-05 continuation, with the exception of increases supported through receipts and increases included to annualize three new positions, per the Governor's recommendation.

	FY 03-04	FY 04-05
531461 EPA & SPA Longevity	(\$6,318)	(\$6,318)
531511 Social Security Contr.	(\$175)	(\$175)
531521 Regular Retirement Contr.	(\$191)	(\$191)

**1240 Business License Information Office**

**86 Eliminates the Business License Information Office**

(\$260,000) R

Eliminates the Business License Information Office effective July 1, 2004, including 6 consultant positions. During fiscal year 2003-2004, the Department along with the Community College System will develop a plan for transferring the consultation function to the Small Business Centers in the Community College System. Funds appropriated in the continuation budget for the Business License Information Office can be used to implement the transfer, including the establishment of a web-based system and training for the Small Business Centers.

-6.00

**1300 Notary Public**

**87 Continuation Budget Reductions**

(\$1,395) R (\$1,395) R

Eliminates all inflationary increases included in the 2003-05 continuation budget per the Governor's recommendation.

	FY 03-04	FY 04-05
531461 EPA & SPA Longevity	(\$918)	(\$918)
531511 Social Security Contr.	(\$449)	(\$449)
531521 Regular Retirement Contr.	(\$28)	(\$28)

**Department-wide**

**88 Operating Budget Reductions**

(\$18,881) R (\$18,881) R

Reduces the operating budget for travel, department-wide.

---

**Total Legislative Changes**

(\$153,106) R (\$423,725) R

**Total Position Changes**

-3.00 -9.00

**Revised Budget**

\$8,057,198 \$7,756,198

---

State Board of Elections

GENERAL FUND

	FY 2003-04	FY 2004-05
<b>Recommended Budget</b>	<b>\$3,123,646</b>	<b>\$3,124,003</b>

**Legislative Changes**

**1100 Administration**

**89 Transfer SEIMS Approp. from Fund 1100 to Reserve** (\$1,665,650) R (\$1,665,650) R

Reduce the State Board of Elections' Fund 1100 Administration by \$1,665,650. This is the amount currently authorized for expenditure for the Statewide Election Information Management System (SEIMS) or computerized voter registration project and is a portion of what is required for the Maintenance of Effort (MOE) condition stipulated in the Help America Vote Act of 2002 (HAVA) federal legislation. This exact amount will be transferred to a Reserve Fund (19xx) in the State Board of Elections budget and be joined with an additional General Fund appropriation to ensure that the State provides its full 1999-00 expense level of \$3,457,586.

**90 State Match Funds for HAVA requirements** \$1,922,215 NR

Provides funds to meet the matching requirement of Title II Help America Vote Act, Public Law 107-252. Under HAVA, there is a required 95% federal / 5% state funding mechanism for funding HAVA requirements. North Carolina expects to receive \$22,600,000 in appropriated HAVA Title II federal funds in 2003-04 and an estimated \$13,944,000 in 2004-05. North Carolina's match requirement is \$1,188,760 for FY 2003-04 and an estimated \$733,455 for FY 2004-05. These non-recurring amounts are to be allocated to the State's Election Fund established by S.L. 2003-12.

Also, North Carolina expects to receive an estimated \$13,944,000 in federal HAVA funds in 2005-06. An additional \$733,455 of state funds would be needed to match those funds when they are allocated.

**19xx Reserves**

**91 State MOE for HAVA in Reserve Fund**

\$3,457,586 R      \$3,457,586 R

Federal law, HAVA, requires that the State not spend any less state money for required qualified HAVA activities than what it expended on such during 1999-00. This Maintenance of Effort or MOE requirement is in addition to the match funds requirement for the State to meet to be eligible to receive federal requirement payments.

In state fiscal year 1999-00, the State Board of Elections (Board) expended \$3,457,585.06 on its computerized voter registration system (SEIMS). HAVA Title III required activities, for which the federal requirements payments can be used and for which the Board expended funds upon in 1999-00, includes the SEIMS project. In 2002-03, the Board was authorized to expend only \$1,665,650 on the SEIMS project.

	1999-00 Actual Expend.	2002-03 Authorized Expend.	Unmet MOE Amount
SEIMS expenditure	\$3,457,586	\$1,665,650	\$1,791,936

To meet its HAVA MOE requirement, the State has to appropriate an additional \$1,791,936 to the State Board of Elections in 2003-04, 2004-05 and on a recurring basis for as long as the HAVA MOE condition is required. This amount, in addition to the currently authorized budgeted amount of \$1,665,650 for SEIMS (to be transferred from the Board's budget Fund 1100 Administration) is to be transferred to the Board's Reserve Fund (Fund 19xx, HAVA Maintenance of Effort Requirement) on a recurring basis. The total recurring dollars to be appropriated from the General Fund to the Board Reserve Fund (19xx) to ensure the 1999-00 expense level, is \$3,457,586 annually.

---

<b>Total Legislative Changes</b>	<b>\$1,791,936</b>	<b>R</b>	<b>\$1,791,936</b>	<b>R</b>
	<b>\$1,922,215</b>	<b>NR</b>		
<b>Total Position Changes</b>				
<b>Revised Budget</b>	<b>\$6,837,797</b>		<b>\$4,915,939</b>	

---

State Budget and Management

GENERAL FUND

	FY 2003-04		FY 2004-05
<b>Recommended Budget</b>	<b>\$4,428,558</b>		<b>\$4,432,863</b>
<b>Legislative Changes</b>			
<b>1310 Office of State Budget &amp; Management</b>			
<b>92 Operating Budget Reductions</b>	<b>(\$216,753)</b>	<b>R</b>	<b>(\$216,753) R</b>
Reduces the operating budget by eliminating three vacant positions (\$212,372) and by eliminating the \$4,381 inflationary increase for EPA & SPA Longevity (account 531461) that was included in the continuation budget. The Governor recommended an unspecified reduction of 5%. This reduction makes up 5% recommended reduction.	-3.00		-3.00
Statistician II 3004-0000-0000-215 (\$57,538)			
State Mgmt. Admin. 3004-0401-0000-590 (\$100,419)			
State Mgmt. Analyst 3004-0403-0000-663 (\$54,415)			
<b>Total Legislative Changes</b>	<b>(\$216,753)</b>	<b>R</b>	<b>(\$216,753) R</b>
<b>Total Position Changes</b>	<b>-3.00</b>		<b>-3.00</b>
<b>Revised Budget</b>	<b>\$4,211,805</b>		<b>\$4,216,110</b>



**State Budget and Management - Special Appropriations**

**GENERAL FUND**

	<b>FY 2003-04</b>		<b>FY 2004-05</b>	
<b>Recommended Budget</b>	<b>\$3,080,000</b>		<b>\$3,080,000</b>	
<b>Legislative Changes</b>				
<b>1022 2003 Special Appropriation</b>				
<b>93 NC Humanities Council</b>	\$50,000	R	\$50,000	R
Provides funding to the North Carolina Humanities Council, a nonprofit corporation, for the programs of the Council.				
<b>1022 2003 Special Appropriations</b>				
<b>94 Kids Voting NC Funds</b>	\$250,000	NR		
Provides funding to Kids Voting of North Carolina, Inc., a nonprofit corporation. Of the \$250,000 appropriated, \$50,000 shall be used by the State program. The remaining \$200,000 shall be divided equally among the participating counties of Buncombe, Cabarrus, Catawba, Cumberland, Durham, Guilford, Haywood, Mecklenburg, and Wake and among the four new participating counties of Henderson, Iredell, New Hanover, and Randolph.				
<b>Total Legislative Changes</b>	<b>\$50,000</b>	<b>R</b>	<b>\$50,000</b>	<b>R</b>
	<b>\$250,000</b>	<b>NR</b>		
<b>Total Position Changes</b>				
<b>Revised Budget</b>	<b>\$3,380,000</b>		<b>\$3,130,000</b>	

State Controller

GENERAL FUND

	FY 2003-04		FY 2004-05
<b>Recommended Budget</b>	<b>\$10,046,077</b>		<b>\$10,071,064</b>
<b>Legislative Changes</b>			
<b>1000 Departmentwide</b>			
<b>95 Operating Budget Reductions</b>	(\$351,613)	R	(\$351,613) R
Reduce the following expenditure accounts each fiscal year per the Governor's recommended budget adjustments:			
	FY 03-04		FY 04-05
532712 Transp. Air/Out of	(500)		(500)
532715 Tranp. Grd/out of State	(100)		(100)
532717 Transp. Other/In State	(100)		(100)
532721 Lodging	(100)		(100)
532724 Meals - In State	(600)		(600)
532725 Meal - Out of State	(500)		(500)
532821 Data Processing	(338,939)		(338,939)
532850 Printing	(2,000)		(2,000)
534522 Computer Equipment	(8,774)		(8,774)
<b>Total Legislative Changes</b>	<b>(\$351,613)</b>	<b>R</b>	<b>(\$351,613) R</b>
<b>Total Position Changes</b>			
<b>Revised Budget</b>	<b>\$9,694,464</b>		<b>\$9,719,451</b>

Treasurer

GENERAL FUND

Recommended Budget	FY 2003-04	FY 2004-05
	\$8,063,750	\$8,066,505

Legislative Changes

1210 Investment Management

**96 Operating Budget Reduction**

(\$45,721) R      (\$45,721) R

Reduces information technology expenditures. Expenditures and receipts in the Computer Technology Internal Service Fund (73410) will be reduced by a corresponding amount.

1410 Retirement Systems Division

**97 Enhance Technology Infrastructure**

\$0 R      \$0 R

Provides partial funding to replace the multitude of information technology systems with an integrated system for all the retirement plans and other programs administered by the Retirement Systems Division. The total enhancements to the infrastructure will be completed in phases over a four-year period beginning with the 2003-2004 fiscal year. The updated technology will enhance customer service by allowing Internet access and prevent the addition of large numbers of staff in the future to manage a rapidly expanding customer base.

0.00      0.00

The Department is authorized to draw additional receipts of up to \$2,741,500 for fiscal year 2003-2004 and of \$2,800,000 in fiscal year 2004-2005 from the Retirement Fund's earnings.

**98 Personnel Adjustments**

\$0 R      \$0 R

Extends funding for 10 existing one-year time limited positions that were established as of April 1, 2003 to allow those positions to be retained one additional year through March 31, 2005, thereby making them two-year time limited positions. Two additional one-year time limited positions that were also established as of April 1, 2003 will be converted to permanent status.

0.00      0.00

The Department is authorized to draw additional receipts of up to \$101,277 for fiscal year 2003-2004 and up to \$320,120 for fiscal year 2004-2005 from the Retirement Fund's earnings for this purpose. Of the amount authorized for the 2004-2005 fiscal year, \$65,155 is recurring to fund the 2 positions that are being converted to permanent status.

Conference Report on the Continuation, Capital, and Expansion Budget

**FY 2003-04**

**FY 2004-05**

**99 Toll-free Telephone Line**

Provides funding for the Retirement Systems Division to maintain a toll-free telephone number for members outside the local calling area. Also provides funding for 6 one-year time-limited positions to fully staff the Division's customer service contact center and to handle the expected 40% increase in calls due to the toll-free telephone line.

\$0	R	\$0	R
0.00		0.00	

The Department is authorized to draw additional receipts of up to \$460,958 for fiscal year 2003-2004 and up to \$200,000 for fiscal year 2004-2005 from the Retirement Fund's earnings to support this expansion item. Of the amount authorized for fiscal year 2003-2004, \$221,508 shall be used for the salaries and benefits for the 6 one-year time-limited positions (effective July 1, 2003) and \$39,450 shall be used for office equipment for those positions. The remaining \$200,000 authorized for fiscal year 2003-2004 and the \$200,000 authorized for fiscal year 2004-2005 are recurring funds that shall be used for the toll-free telephone service.

**Department-wide**

**100 Continuation Budget Item**

Eliminates the inflationary increase that was included in the continuation budget for maintenance agreements as recommended by the Governor.

(\$248,000)	R	(\$248,000)	R
-------------	---	-------------	---

**101 Operating Budget Reductions**

Reduces the operating expenses for financial/audit services (\$120,000), computer equipment (\$5,000), administrative services (\$10,000), and communication and data processing (\$60,000) as recommended by the Governor.

(\$195,000)	R	(\$195,000)	R
-------------	---	-------------	---

---

**Total Legislative Changes**

(\$488,721)	R	(\$488,721)	R
-------------	---	-------------	---

**Total Position Changes**

0.00		0.00	
------	--	------	--

**Revised Budget**

<b>\$7,575,029</b>		<b>\$7,577,784</b>	
--------------------	--	--------------------	--

---

**Treasurer - Retirement for Fire and Rescue Squad Workers**

GENERAL FUND

	FY 2003-04		FY 2004-05	
<b>Recommended Budget</b>	<b>\$7,131,179</b>		<b>\$7,131,179</b>	
<b>Legislative Changes</b>				
<b>1432 Line of Duty Death Benefit</b>				
<b>102 Increase Death Benefit Funding</b>	\$350,000	R	\$350,000	R
Increases the funding for death benefits paid, pursuant to G.S. § 143-12A, to survivors of eligible persons killed in the line of duty. The increase is due to the increase in the number of line of duty deaths.				
<b>Total Legislative Changes</b>	<b>\$350,000</b>	<b>R</b>	<b>\$350,000</b>	<b>R</b>
<b>Total Position Changes</b>				
<b>Revised Budget</b>	<b>\$7,481,179</b>		<b>\$7,481,179</b>	



# **TRANSPORTATION**

## **Section K**





Transportation

	GENERAL FUND	
	FY 2003-04	FY 2004-05
<b>Recommended Budget</b>	<b>\$12,842,163</b>	<b>\$12,872,739</b>
<b>Legislative Changes</b>		
<b>Aeronautics</b>		
<b>(1200) Airport Grants</b>		
<b>1 Reduction in Airport Grants</b>	(\$1,412,638) R	(\$1,469,939) R
Reduces the amount of the increase in State funding for grants to local airports. Total General Fund support for aviation grants in FY2003-04 will increase from \$10,902,500 to \$11,429,525, or by \$527,025. Federal State Block Grant Program funds were \$23,873,466 in Fiscal Year 2001-02.		
<b>Total Legislative Changes</b>	<b>(\$1,412,638) R</b>	<b>(\$1,469,939) R</b>
<b>Total Position Changes</b>		
<b>Revised Budget</b>	<b>\$11,429,525</b>	<b>\$11,402,800</b>

Transportation

HIGHWAY FUND

	FY 2003-04	FY 2004-05
<b>Recommended Budget</b>	<b>\$1,284,128,621</b>	<b>\$1,290,598,009</b>

**Legislative Changes**

**Administration**

**(0240) General Services**

**2 Departmental Recycling Program**

	\$59,489	R		\$56,430	R
--	----------	---	--	----------	---

Provides an operating budget and staff support to assist the Waste Management Analyst with creating and implementing a web based NCDOT Reuse/Recycle Program. This program will provide a method by which all 14 Highway Divisions, the Ferry Division, DMV Driver License, Aviation and the Rail Division are able to submit and view items electronically with digital photos.

	1.00		1.00
--	------	--	------

The position funded is a Processing Assistant IV (59).

**3 Replace Outdated Printing Equipment**

	\$258,000	R		\$258,000	R
--	-----------	---	--	-----------	---

Provides funding to lease new scanning and printing equipment in the Division of Motor Vehicles and the Department of Transportation Print Services Units to replace unreliable black and white analog duplicating equipment.

**(0530) Driver Licensing**

**4 New Driver License Examiner Positions**

	\$1,777,230	R		\$2,467,150	R
--	-------------	---	--	-------------	---

Adds new driver license examiners.

	\$0	NR		\$106,400	NR
	45.00			70.00	

**(0610) Bicycle and Pedestrian**

**5 Planning Grants for Local Governments**

	\$150,705	R		\$250,705	R
--	-----------	---	--	-----------	---

G.S.136-66.2 requires each municipality to develop a comprehensive transportation plan, including bicycle and pedestrian, to serve present and future travel demands. Provides funds to establish matching grants for municipalities, and to fund a managerial level position.

**(2120) Division 12**

**6 Establish Third District Office**

	\$104,659	R		\$104,659	R
--	-----------	---	--	-----------	---

Provides funding to add a third district office in Division 12. The plans are to remodel an existing building in Conover, NC to house the maintenance operations in Lincoln and Catawba counties. The new office will require the creation of two new positions, an Office Assistant IV and a Transportation Engineering Supervisor II.

	\$45,341	NR		
	2.00			2.00

Conference Report on the Continuation, Capital, and Expansion Budget

**FY 2003-04**

**FY 2004-05**

**(5120) Secondary Road Construction**

**7 Technical Adjustment to Secondary Roads Allocation**

(\$530,000) R (\$1,970,000) R

The allocation to secondary roads is determined by statute and is a function of gallons of motor fuel sold. Revised estimates of gallons sold are below the original forecasts and this technical adjustment revises the budget for the secondary roads allocation accordingly. This reduces the secondary road budget from \$90,130,000 in FY2003-04 to \$89,600,000.

**(5130) Small Urban Construction**

**8 Increase Funding**

\$14,000,000 NR

Increases funding for small urban construction from \$14,000,000 to \$28,000,000 for FY 2003-2004.

**(5180) Contingency Construction**

**9 Increase Funding**

\$5,000,000 NR

Increases funding from \$10,000,000 to \$15,000,000 for FY 2003-2004.

**(5910) Aid to Municipalities**

**10 Technical Adjustment to Aid for Municipalities**

(\$530,000) R (\$1,970,000) R

The allocation to municipalities is determined by statute and is a function of gallons of motor fuel sold. Revised estimates of gallons sold are below the original forecasts and this technical adjustment revises the budget for aid to municipalities accordingly. This reduces the municipal aid budget in FY2003-04 from \$90,130,000 to \$89,600,000.

**(5940) Railroad Program**

**11 Maintenance for Rail Infrastructure**

\$1,785,000 R \$2,100,000 R

Establishes a recurring fund for maintenance of completed rail capital projects, including Sealed Corridor, Inactive Rail Corridors, North Carolina Railroad Improvement, Facilities Maintenance and Passenger Stations.

**12 Rail Capital and Safety**

\$2,730,919 R \$2,856,153 R

Supports the Rail Division Capital and Safety Programs. The funds will be used for major track and signal upgrades and capacity expansion, initiatives to grade separate highway and rail traffic on major highway corridors, plan expansion of rail maintenance facilities, and purchase and renovate rolling stock as necessary.

**(5970) Public Transportation**

**13 Regional Transportation (New Starts and Capital)**

\$2,000,000 NR

Provides 25% state match for planning, environmental impact studies, design, right of way acquisition, rail car purchases and construction costs to initiate major regional guideway projects.

Transportation

Conference Report on the Continuation, Capital, and Expansion Budget

	FY 2003-04		FY 2004-05	
<b>14 Replace Nonrecurring Funds from Senate Bill 1005</b>	\$0	R	\$10,600,000	R
Senate Bill 1005 provided nonrecurring funds for public transportation. This action provides recurring funding to replace those funds when they expire after FY 2004. This action does not expand the public transportation program.				
	FY 2004-05			
Rural Operating	\$1,600,000			
Rural Capital	\$2,000,000			
Human Services	\$2,000,000			
Urban, Regional Maint.	\$5,000,000			
<b>15 Rural Operating Assistance</b>	\$400,000	R	\$400,000	R
Provides operating assistance funds to the Rural General Public Program (RGP).				
<b>16 Human Services Management</b>	\$300,000	R	\$300,000	R
Provides administrative assistance to community transportation systems that serve only human service clients.				
<b>17 Urban and Regional Maintenance</b>	\$1,357,092	R	\$1,357,092	R
	\$8,002,340	NR		
Provides operating assistance to each of the state's 21 small urban and regional fixed route systems. The allocation formula is based largely on performance, with the systems that provide the most revenue miles of service and passenger trips in the most efficient manner receiving the majority of the funding. Increases funding for this program.				
<b>18 Urban Buses Facilities and Technology</b>	\$3,185,000	R	\$3,185,000	R
Provides a 10% state match to federal grants for vehicle replacement and expansion needs. Provides funding for construction and renovation of maintenance facilities, multimodal facilities, and transfer centers for transit systems operating in urban areas. Provides state funds for the acquisition of advanced technologies for regional and urban transit systems including automatic vehicle locators, regional call centers and other technologies that will provide convenient and complete information to transit customers and increase overall system efficiencies.				
<b>(6220) Leaking Underground Storage Tanks</b>				
<b>19 Technical Adjustment</b>				
Adjusts contribution to Leaking Underground Storage Tank Fund based on a revised estimate of motor fuel sales.				
	(\$50,000)	NR		
<b>(6270) Crime Control and Public Safety</b>				
<b>20 State Highway Patrol Troopers</b>	\$1,350,000	R	\$1,350,000	R
	\$1,150,000	NR		
Provides Highway Fund appropriations to support the cost of hiring 25 additional State Highway Patrol troopers.				

Conference Report on the Continuation, Capital, and Expansion Budget

	FY 2003-04		FY 2004-05	
<b>(6310) Department of Public Instruction</b>				
<b>21 Reduce Transfer for Driver Education</b>	(\$199,298)	R	(\$170,291)	R
The amount transferred to the Department of Public Instruction for Driver Education is the forecast of the Average Daily Membership (ADM) of ninth grade students multiplied by \$250.06. The newest forecast of ADM is slightly lower than the previous forecast and the amount budgeted is decreased accordingly.				
<b>(6320) State Treasurer</b>				
<b>22 Revised Payment in Lieu of Sales Tax</b>	\$251,000	NR		
Adjusts the payment as a result of a revision in the projected Sales Tax Revenue for the FY2003-05 Biennium.				
<b>(6330) Global TransPark</b>				
<b>23 Phase Out Highway Fund Support</b>	\$1,600,000	NR		
Provides nonrecurring Highway Fund appropriations to support the Global TransPark for FY 2003-04. Highway Fund support to the Global TransPark will end on June 30, 2004.				
<b>(6611) Retirement System</b>				
<b>24 Retirement System Contributions</b>	\$811,140	R	\$7,558,000	R
Provides State funds for fiscal years 2003-04 and 2004-05 for members of the Teachers' and State Employees' Retirement System to begin increasing the contribution rate due to losses in investments and to provide a cost-of-living adjustment of 1.28% for retirees beginning July 1, 2003.				
<b>25 Suspend State Contributions</b>	(\$2,500,000)	NR	(\$589,000)	NR
Suspends the State contributions to the Death Benefit Plan and the Disability Income Plan for the 2003-2004 fiscal year, and the Death Benefit plan for the 2004-2005 fiscal year.				
<b>(6801) Reserves and Transfers</b>				
<b>26 State Funded Compensation Bonus</b>	\$6,400,000	NR		
Provide funds to support a one-time compensation bonus to State employees whose salaries and related employer contributions are supported out of the Highway Fund.				
<b>(6828) General Maintenance Reserve</b>				
<b>27 Highway Maintenance</b>	\$3,205,108	R	\$3,205,108	R
Provides funding for highway maintenance.				
	\$9,071,328	NR		

Conference Report on the Continuation, Capital, and Expansion Budget

	FY 2003-04		FY 2004-05	
<b>(6832) Reserve for Visitor Centers</b>				
<b>28 Increase Funding for Visitor Centers</b>	\$200,000	R	\$200,000	R
Provides \$25,000 for each Visitor Center in the following counties: Brunswick, Camden, Carteret, Caswell, Macon, McDowell, Tyrell, and Watauga.				
<b>(6836) Funds</b>				
<b>29 Reserve for Retiree Health Benefits</b>	\$1,600,000	R	\$1,600,000	R
Provides funds to continue to pay FY 2002-03 retiree health benefit premiums beyond June 30, 2003.				
<b>30 State Employee Health Plan Reserve</b>	\$5,671,000	R	\$7,671,000	R
Governor's recommendation to provide funds to increase the State's contribution for active and retired employees' health care benefits by 17% effective October 1, 2003. Employer contribution rate for retiree health benefits increased accordingly.				
<b>Total Legislative Changes</b>	<b>\$23,686,044</b>	<b>R</b>	<b>\$41,409,006</b>	<b>R</b>
	<b>\$44,970,009</b>	<b>NR</b>	<b>(\$482,600)</b>	<b>NR</b>
<b>Total Position Changes</b>	<b>48.00</b>		<b>73.00</b>	
<b>Revised Budget</b>	<b>\$1,352,784,674</b>		<b>\$1,331,524,415</b>	

**RESERVES/  
DEBT SERVICE/  
ADJUSTMENTS**

**Section L**





## Reserves, Debt Service and Adjustments

GENERAL FUND
--------------

Recommended Budget	FY 2003-04		FY 2004-05	
	\$436,786,713		\$505,649,255	
<b>Legislative Changes</b>				
<b>A. Employee Benefits</b>				
<b>1 State Funded Compensation Increases</b>	\$45,550,000	R	\$45,550,000	R
Provides funds to increase salaries of employees of Public Schools, Community Colleges, State Agencies and Departments and the UNC System.	\$86,500,000	NR		
Public Schools				
Teachers and Instructional Support -- 1.81% average				
Principals and Assistant Principals -- 1.86% average				
All Other Public School Employees -- \$550 one-time bonus				
Also provided are \$6.1 million in nonrecurring funds to support one-time bonus compensation to teachers and principals who are at the top of their respective experience step salary schedules and who will not otherwise receive an experience step salary increase.				
Community College Employees -- \$550 one-time bonus				
Also provided are additional recurring funds of \$3.25 million in the 2003-2004 fiscal year to support an additional one-half percent salary increase for Community College System faculty and professional staff.				
State Agencies and Departments				
SPA Employees -- \$550 one-time bonus				
EPA Employees -- \$550 one-time bonus				
State Agency Teachers -- 1.81% average				
UNC System				
SPA Employees -- \$550 one-time bonus				
EPA Employees -- \$550 one-time bonus				
School of Science and Math Faculty -- 1.81% average				
<b>2 Retirement System Contributions</b>	\$16,546,000	R	\$154,200,000	R
Increases the contribution rate for fiscal years 2003-04 and 2004-05 to compensate for losses in investments and to provide a cost-of-living adjustment of 1.28% for retirees beginning July 1, 2003.	\$10,000,000	NR		
<b>3 Suspend State Contributions to Death Benefit &amp; Disability Income Plan</b>				
Suspends the State contributions to the Death Benefit Plan and the Disability Income Plan for the 2003-2004 fiscal year and the Death Benefit Plan for the 2004-2005 fiscal year.	(\$54,000,000)	NR	(\$12,000,000)	NR

Conference Report on the Continuation, Capital, and Expansion Budget	FY 2003-04		FY 2004-05	
<b>4 Court Costs</b>	(\$1,000,000)	R	(\$1,000,000)	R
Directs court costs presently going to the Separate Benefit Fund to General Fund.				
<b>5 State Employee Health Plan Reserve</b>	\$113,418,000	R	\$151,225,000	R
Funds to increase the State's contribution for active and retired employees' health care benefits by 17% effective October 1, 2003. Employer contribution rate for retiree health benefits increased accordingly.				
<b>6 Reserve for Retiree Health Benefits</b>	\$36,800,000	R	\$36,800,000	R
Provides funds to continue to pay 2002-03 retiree health benefit premiums beyond June 30, 2003.				
<b>B. Debt Service</b>				
<b>7 General Fund Debt Service</b>	(\$42,344,845)	R	(\$30,305,624)	R
Adjusts debt service requirement to reflect revised cash flow requirements.				
<b>8 Additional Debt Service</b>			\$34,995,000	R
Provide additional funds for debt service due to increased requirements for principal and interest payments associated with the issuance of special indebtedness for repairs and renovations of state facilities authorized by this act.				
<b>C. Other Reserves</b>				
<b>9 Salary Adjustment Fund</b>	\$4,000,000	R	\$4,000,000	R
Increases funds for adjustments to state employees' salaries resulting from OSP recommendations.				
<b>10 General Assembly - Reserve for Blue Ribbon Commission on Medicaid Reform</b>	\$250,000	NR		
Provides funding for a Blue Ribbon Commission on Medicaid Reform. The Commission will recommend long term cost containment measures to the General Assembly.				
<b>11 DOA - State Surplus Real Property System Reserve</b>	\$250,000	NR		
Creates a reserve in the Department of Administration to pay consultants and other operating expenses associated with the development and implementation of a system for identification and disposal of surplus real property.				
<b>12 OSBM - Reserve for HIPAA Implementation</b>	\$2,000,000	NR		
Funds activities required to implement the federal Health Insurance and Portability and Accountability Act. This act establishes standards for the transmission, storage and handling of certain electronic health care data.				
<b>13 Mental Health Trust Fund</b>	\$12,500,000	NR		
Provides funding to continue mental health system reform.				

Reserves, Debt Service and Adjustments

Page L 2

---

<b>Total Legislative Changes</b>	\$172,969,155	R	\$395,464,376	R
	\$57,500,000	NR	(\$12,000,000)	NR
<b>Total Position Changes</b>				
<b>Revised Budget</b>	\$667,255,868		\$889,113,631	

---



# **CAPITAL**

## **Section M**



---

**Capital**

GENERAL FUND

FY 2003-04

FY 2004-05

---

**Department of Environment and Natural Resources**

**1 Water Resources Development Projects**

Includes funding for state share of Water Resources  
Development Projects. Project list is included in HB 397 at  
Section 31.2.

\$27,601,000 NR

---

**Total Capital Appropriation**

\$27,601,000 NR

---





# NUMERICAL INDEX TO HOUSE AND SENATE BILLS

## 2003 GENERAL ASSEMBLY 2003 REGULAR SESSION 2003 EXTRA SESSION 2003 SECOND EXTRA SESSION

"Ratified Number" refers to the Session Law number except when preceded by an R, in which case it refers to the Resolution number. Extra Session legislation is identified by an asterisk (\*). Second Extra Session legislation is identified by a double asterisk (\*\*).

### HOUSE BILLS

<i>H.B.</i>	<i>Ratified Number</i>	<i>H.B.</i>	<i>Ratified Number</i>	<i>H.B.</i>	<i>Ratified Number</i>
2	** 435	163	241	357	206
3	* 434	182	318	358	137
7	* R33	187	121	382	4
13	119	197	122	392	R7
22	112	201	209	393	72
24	36	214	123	394	337
35	3	223	385	396	125
36	13	231	R25	397	284
38	302	232	242	401	322
42	159	234	52	408	303
47	426	237	11	421	131
48	383	248	238	425	338
55	145	249	162	432	9
58	38	253	193	440	330
59	R3	270	221	461	56
63	90	273	169	462	117
68	86	276	212	469	270
69	R24	278	155	472	R6
70	245	283	290	474	323
79	376	295	124	475	60
80	58	304	181	478	191
89	129	313	327	480	45
103	57	320	25	482	10
116	195	326	44	483	211
124	83	328	361	497	351
126	62	331	359	499	126
134	43	340	8	501	163
135	7	344	177	510	110
150	429	351	130	511	243
152	407	352	141	512	46
153	120	355	87	516	246

<i>H.B.</i>	<i>Ratified Number</i>	<i>H.B.</i>	<i>Ratified Number</i>	<i>H.B.</i>	<i>Ratified Number</i>
517	73	733	325	926	409
520	84	735	133	928	213
542	282	736	329	932	391
543	362	742	78	941	172
549	12	743	342	944	336
550	164	744	105	948	344
560	143	745	260	950	53
562	280	746	54	952	61
566	433	750	48	963	394
570	324	751	364	972	399
581	21	754	432	974	367
582	127	755	74	975	228
597	271	765	79	978	139
598	200	773	247	986	395
601	251	774	204	987	154
606	R21	776	134	994	305
609	170	785	276	999	386
625	165	786	380	1000	356
626	202	787	274	1003	153
627	132	790	75	1006	400
636	59	797	419	1016	292
637	225	801	275	1023	311
645	27	807	296	1024	214
646	16	813	R9	1025	108
651	85	815	390	1026	377
655	189	818	248	1028	427
656	261	819	365	1030	379
665	210	821	142	1032	257
668	166	824	267	1037	297
673	272	825	194	1048	140
679	128	826	313	1049	368
680	203	829	144	1062	387
681	R8	842	226	1063	196
684	314	844	R15	1065	66
685	317	855	424	1066	369
686	47	860	398	1070	312
689	101	864	138	1074	346
692	265	869	183	1078	106
694	363	883	178	1093	167
696	190	886	366	1114	353
697	328	892	235	1118	339
703	33	897	352	1120	278
705	273	900	135	1123	236
706	197	907	343	1126	371
710	55	913	99	1129	308
725	244	916	227	1134	111
727	198	925	171	1140	310

<i>H.B.</i>	<i>Ratified Number</i>	<i>H.B.</i>	<i>Ratified Number</i>	<i>H.B.</i>	<i>Ratified Number</i>
1151	229	1181	174	1260	222
1155	224	1182	401	1294	414
1158	160	1194	425	1301	417
1159	152	1201	173	1328	R27
1161	R11	1205	37	1329	R18
1170	319	1210	215	1331	R22
1171	299	1221	263	1335	R31
1175	136	1241	405	1338	R28
1177	109	1257	384		

## SENATE BILLS

<i>S.B.</i>	<i>Ratified Number</i>	<i>S.B.</i>	<i>Ratified Number</i>	<i>S.B.</i>	<i>Ratified Number</i>
2	14	288	89	475	279
5	** R34	290	76	477	51
8	1	292	161	478	77
19	218	293	331	482	26
21	R1	294	20	490	41
29	2	295	68	492	82
30	22	301	355	494	237
33	199	307	6	497	281
35	354	315	207	502	255
38	184	317	326	503	253
39	69	319	188	511	264
57	240	323	97	517	94
61	397	324	372	519	150
76	268	326	67	521	298
83	80	327	R30	522	146
89	332	338	24	529	333
90	185	355	32	537	287
93	151	356	40	539	116
97	416	357	320	549	232
100	431	365	R13	550	420
102	39	366	R12	555	98
117	289	388	186	557	65
119	415	389	49	558	258
122	30	394	168	559	113
123	42	396	17	561	374
124	118	408	316	563	375
136	157	414	201	583	421
138	R2	416	R29	592	347
162	34	417	50	593	266
167	217	419	18	608	R23
168	418	421	304	619	104
171	R5	422	70	620	147
181	88	423	288	622	233
214	187	424	230	627	234
226	406	425	81	629	219
232	256	437	231	630	107
235	5	439	220	633	357
236	349	440	15	647	175
244	29	449	95	648	176
245	96	450	250	652	259
251	205	452	321	655	350
264	R4	465	23	656	277
274	283	468	93	658	63
276	35	471	115	659	373

<i>S.B.</i>	<i>Ratified Number</i>	<i>S.B.</i>	<i>Ratified Number</i>	<i>S.B.</i>	<i>Ratified Number</i>
661	392	774	334	936	300
668	402	775	307	939	341
669	208	776	156	940	103
679	388	777	254	945	428
692	180	784	19	952	293
693	378	786	285	955	291
694	249	800	348	959	149
698	306	814	91	962	148
701	358	819	404	963	412
704	114	824	340	965	423
705	360	825	100	966	262
706	239	831	422	979	92
708	182	840	315	993	408
714	301	847	370	995	269
716	345	851	102	996	382
725	403	872	411	1011	309
731	71	876	335	1016	393
733	28	877	192	1019	R10
750	430	881	295	1021	R16
751	389	887	223	1022	R26
753	381	897	179	1023	R19
765	64	912	252	1024	R14
769	158	919	410	1026	R17
771	216	925	413	1027	R20
772	31	926	294	1030	R32
773	286	934	396		



**INDEX TO SESSION LAWS  
2003 GENERAL ASSEMBLY  
REGULAR SESSION 2003**

Suggestions for Use: Local legislation appears under the name of the particular county or locality. Legislation that amends or repeals another session law appears under “Laws Amended or Repealed.” General appropriations appear under “Appropriations” or the particular agency. Legislation earmarking appropriations appears under the particular agency and/or subject following the sub-heading “appropriations”. Boards, commissions and committees appear as main entries. Citations sub-sections and sub-sub-sections are shown without parenthesis: thus the citation Chapter 284 sec. 12..6D(a) would be shown as 284(12.6Da).

**A**

**ABC Boards (Local)**

Craven County ABC Board law enforcement personnel and services .....	20
Greensboro Board of Alcohol Control membership increase .....	33

**Abortion**

Abortion services certification fees .....	284(34.7a)–(34.7b)
Limitations on State funds .....	284(10.54)

**Accounting and Auditing**

Accounting of funds distribution from personal injury recovery .....	309
Audit penalty for Smart Start.....	284(10.38j)
Community Alternatives Program for Disabled Adults audit.....	284(10.29Ba)
Compliance with audit report on youth development and detention centers .....	284(15.9)
Conform insurance laws to NAIC statutory accounting principles .....	212(4)–(13)
Overpayments audit.....	284(27.1a)–(27.1e)
Return of overpayments by persons in State-supported positions.....	263
Smart Start audit .....	284(19.1)

**Acquired Immune Deficiency Syndrome (AIDS)—*see***

AIDS (Acquired Immune Deficiency Syndrome)

**Administration, Department of**

Advocacy programs study .....	284(18.2)
Appropriations	
Current operations .....	284(2.1)
In-home services for the elderly block grant funds.....	284(5.1a)
Petroleum overcharge funds allocation .....	284(18.4a)–(18.4b)
Transfer for planning and design of youth development centers .....	284(15.7b)
Veterans scholarship funds .....	284(18.5c)
Blount Street historic district property sale .....	404
Guaranteed energy savings contracts .....	138
Land transfers for millennium campuses at UNC-Greensboro and NC A & T .....	284(6.20)
Low-income residential energy program.....	284(18.3)

**Administration, Department of—continued**

Mail Service Center use.....	284(18.1)
Motor Fleet Management Division	
Best management practices for motor pool.....	177
Petroleum overcharge funds allocation .....	284(18.4a)–(18.4b)
Purchase of reconstituted/recombined milk by State prohibited.....	367
Purchasing flexibility for local boards of education and E-Procurement system use .....	147
Reports — <i>see</i> that heading	
Request for information for energy management services.....	284(6.13)
Sale and lease-back of State-owned property study .....	284(6.8f)
Secretary's salary .....	284(30.2)
State contracts with entities in tax haven countries prohibited.....	413(28)
State-owned surplus real property system .....	284(6.8a)–(6.8g)
Surplus/confiscated property sale by electronic auction .....	284(18.6a)–(18.6c)
Youth development centers new planning.....	284(15.7a)–(15.7b)
<b>Administrative Hearings, Office of—Appropriations .....</b>	<b>284(2.1)</b>
<b>Administrative Office of the Courts (AOC)—<i>see</i> Courts</b>	
<b>Administrative Rules</b>	
Accountings in testamentary trusts.....	261
Adult day and health centers rate-setting .....	284(10.58)
Attraction logo signs allowed on highways.....	184(3)
Catawba River Basin water quality rules extension .....	340(5)
Coastal recreation waters monitoring.....	149
Drug detection dog training controlled substances registration requirements .....	398
Emergency rules .....	229
Farmers markets and agricultural centers rental rates .....	71(2)–(3)
Film Industry Development Account .....	284(12.6Ac)
Fisheries Director proclamation authority .....	154
Guaranteed energy savings contracts .....	138(2)
Insurance customer information protection.....	262
Life insurance replacement rules disapproved .....	143
NAIC model standard nonforfeiture law for deferred annuities adopted .....	144
Petroleum underground storage tank	
Secondary containment requirement.....	352(8)
Testing requirements .....	352(11)
Reptile and amphibian protection.....	100
Riprap sills for wetland enhancement and shoreline protection permit.....	427(1)–(2)
Rule-making process change .....	229
Special Needs Adoption Incentive Fund .....	284(10.45)
State Medical Facilities Plan excluded from definition of a rule .....	229
Swift Creek/Sandy Creek reclassification .....	433(1)–(2), (4)



**Administrative Rules—continued**

Temporary rules	
Authorized for Medicaid .....	284(10.19s)
Carolina Beach marina and fee .....	284(35.1Ac)
Nursery dealer certification fees .....	284(35.3b)
Rule-making authority extended for Medical Care Commission .....	284(10.8C)
Universal service provider designation .....	99
<b>Adoption</b>	
Celebrate Adoption license plate .....	424(2)
Foster care/adoption assistance payments .....	284(10.46a)–(10.46d)
Special Children Adoption Fund	
Block grant funds .....	284(5.1a)
Funds .....	284(10.47a)–(10.47b)
Guidelines.....	284(5.1s)
Special Needs Adoption Incentive Fund created.....	284(10.45)
<b>Advertising</b>	
Attraction logo signs allowed on highways.....	184(2)–(3)
Outdoor advertising amortization ordinances	
Moratorium.....	432
Study.....	432(2)
Telephone solicitation restrictions.....	411
<b>Aging</b>	
Adult day and health centers rate-setting rules.....	284(10.58)
Community Alternatives Program for Disabled Adults	
Audit.....	284(10.29Ba)
Review.....	284(10.29Bb)–(10.29Bc)
Home and community care block grant funds.....	284(5.1a)
Medicaid income eligibility standards.....	284(10.19e)
Outreach services to low income elderly.....	284(5.1a)
Senior cares program administration.....	284(10.5)
Senior center outreach .....	284(10.42a)–(10.42c)
<b>Agricultural Finance Authority—Executive Director's</b>	
salary .....	284(30.3)
<b>Agriculture</b>	
Agricultural and animal waste	
Inspection pilot program .....	340(6.1)–(6.2)
Moratorium exemption.....	340(7)
Nondischarge animal waste permits	
Expiration date extensions .....	28(1)
Study .....	28(2)
Swine farm moratorium extended.....	266
Agricultural research and cooperative extension matching funds .....	284(9.9)
Agricultural vehicle escort and driver training program implementation .....	383(7)
Aquaculture — <i>see</i> that heading	
Cost share funds for limited resource/new farmers .....	284(11.6)

<b>Agriculture—continued</b>	
Exclusion for property used to reduce cotton dust clarification.....	284(43A.1)–(43A.2)
Farm machinery agreement termination notification .....	195
Farmland preservation projects funds.....	284(11.8a)–(11.8b)
Fertilizer package nutrient guarantees .....	71(1)
Flagman not required to move agricultural equipment between farms.....	383(8)
Land exempt from zoning in Wentworth .....	330
<b>Agriculture and Consumer Services, Department of</b>	
Animal disease diagnostic testing fees increases reflected in budget .....	284(35.3a)
Appropriations	
Current operations .....	284(2.1)
Tobacco Trust Fund transfers for General Fund appropriations.....	284(2.2b)
Cervid (deer) regulation.....	344
Commercial turtle production study .....	284(10A.1)
Commissioner	
Civil penalty for violation of food, drug, and cosmetic act .....	389
Salary .....	284(30.1b)
Nursery dealer certification fees .....	284(35.3b)
Pesticide fees .....	284(35.4a)–(35.4f)
Puppy mill regulation study.....	208(2a)–(2b)
<b>Agriculture, Board of</b>	
Farmers markets and agricultural centers rental rates rules .....	71(2)–(3)
Nursery dealer certification fees.....	284(35.3b)
<b>AIDS (Acquired Immune Deficiency Syndrome)</b>	
ADAP (AIDS Drug Assistance Program)	
Eligibility.....	284(10.31a)–(10.31b)
Income eligibility expansion .....	284(10.31Aa)–(10.31Ac)
Education, counseling, and testing block grant funds .....	284(5.1a)
HIV/AIDS education, counseling, and testing block grant funds .....	284(5.1a)
Prevention block grant funds .....	284(5.1a)
Risk reduction projects block grant funds .....	284(5.1a)
Substance abuse services for those at risk for HIV block grant funds .....	284(5.1a)
<b>Airports—see Aviation</b>	
<b>Alamance County</b>	
Gover Garden charter school TSECMMP participation.....	354(1)
Occaneechi Band of the Saponi recognition.....	54(2)
<b>Alarm Systems—see Safety</b>	
<b>Alarm Systems Licensing Board—pay for use of State facilities and services .....</b>	
	284(14.2)
<b>Albemarle, City of—ABC proceeds distribution .....</b>	121(2)
<b>Alcoholic Beverage Control Commission</b>	
Chairman's salary.....	284(30.3)
Out-of-state wine shipments .....	402

**Alcoholic Beverages**

ABC Boards (Local) —see that heading  
ABC proceeds distribution  
    Albemarle ..... 121(2)  
    Norwood..... 121(1)  
Driving While Impaired (DWI) —see that heading  
Eliminate alcohol discounts ..... 284(45A2a)–(45A.2b)  
Mothers Against Drunk Driving license plate ..... 424(2)  
Notice of danger to pregnancy requirement ..... 339  
Out-of-state wine shipments ..... 402  
Restaurant definition for ABC permits ..... 135  
Sexually explicit conduct on licensed premises ..... 382  
Small brewery production ceiling increase ..... 430  
Township ABC elections ..... 218

**Alternative Medicine**—see Health Services

**American Indians**—see Minorities; Tribal Government

**Amusement Device Safety Act** ..... 170

**Amusement Parks**—see Entertainment Industry;

Parks and Recreation Areas; Recreation and Leisure

**Andrews, Town of**—satellite annexation ..... 243

**Animal Waste**—see Agriculture

**Animals**

Animal disease diagnostic testing fees increases reflected  
    in budget ..... 284(35.3a)  
Contagious animal disease State Veterinarian provisions  
    sunset extension ..... 6  
Drug detection dog training controlled substances registration  
    requirements ..... 398  
Protection of animals civil remedy ..... 208  
Puppy mill regulation study ..... 208(2a)–(2b)  
Small horse trailer weigh station exemption ..... 338

**Annexation**

Andrews satellite annexation ..... 243  
Beaufort satellite annexation ..... 204  
Bladenboro voluntary satellite annexation ..... 30  
Carolina Shores ..... 78  
Chadbourn ..... 18  
Claremont ..... 244(1)–(2)  
Conover deannexation ..... 244(2)  
Dallas ..... 279  
Durham ..... 26  
Economic development zone in Cabarrus County ..... 326(2)  
Eden annexation contract negotiation authority ..... 316  
Extension into Currituck County by entity outside of county  
    prohibited ..... 27  
Gastonia voluntary satellite annexation ..... 30  
Jonesville ..... 44  
Kings Mountain ..... 241  
Kitty Hawk ..... 364(3)

<b>Annexation—continued</b>	
Locust voluntary satellite annexation .....	30
Lumberton deannexation .....	271(2)
Matthews annexation .....	273(1a)–(1c)
Moratorium in Cabarrus County for certain municipalities .....	326(1)
Mount Airy .....	281(11)
Pine Level voluntary satellite annexation.....	30
Raeford .....	17
Ranlo voluntary satellite annexation .....	30
Removal of territory from research and production district.....	187
Roanoke Rapids .....	7; 200; 271(1)
Satellite annexation by cities in Union County .....	321
Waxhaw annexation.....	273(2a)–(2b)
<b>Anson County</b>	
Ansonville, Town of — <i>see</i> that heading	
Peachland, Town of — <i>see</i> that heading	
Polkton, Town of — <i>see</i> that heading	
Wadesboro, Town of — <i>see</i> that heading	
<b>Ansonville, Town of</b> —mayor and town council's terms.....	190(3)
<b>Apex, Town of</b>	
Condemnation authority .....	88(1)
Historic structure demolition regulation.....	88(2)
<b>Appointments</b>	
Arboretum director reappointment .....	102
Currituck Game Commission appointments.....	16
Governor's appointments	
Atlantic States Marine Fisheries Compact and Commission.....	92
Blount Street Historic District Oversight Committee .....	404(3b)
Cervical Cancer Elimination Task Force .....	176
Clean Water Management Trust Fund Board .....	422
Crematory Authority .....	420(2)
Deaf and Hard of Hearing, Council for.....	343(2)–(3)
Disciplinary Hearing Commission of the State Bar.....	116(3)
Education, State Board of .....	306
E-NC Authority .....	425(1)
Global TransPark Development Commission.....	94
Medical Board.....	366(1)
Nursing, Board of.....	146(1), (7)
Real Property Management Advisory Council .....	284(6.8d)
Respiratory Care Board.....	384(1)
School of Science and Mathematics, Board of Trustees.....	57
Traumatic Brain Injury Advisory Council .....	114
Unique Mobility Needs of Urban Areas, Blue Ribbon Commission to Study the.....	383(5b)
Greensboro Board of Alcohol Control membership increase .....	33
Indian Affairs Commission appointments	
Indian Cultural Center, Inc., Board of the North Carolina .....	260
Mayor of Raleigh's appointments	
Blount Street Historic District Oversight Committee .....	404(3b)

**Appointments—continued**

Notice of appointment to certain State commissions, committees, councils and boards .....	374(2)–(8)
President Pro Tempore's appointments	
Blount Street Historic District Oversight Committee .....	404(3b)
Cervical Cancer Elimination Task Force .....	176
Clean Water Management Trust Fund Board .....	422
Disciplinary Hearing Commission of the State Bar .....	116(3)
Dorothea Dix Hospital Property Study Commission .....	314(3.4b)
E-NC Authority .....	425(1)
Executive Budget Act Revisions, Joint Committee on .....	284(6.12a)
Highway Trust Fund Study Committee .....	284(29.12b)
Medicaid Reform, Blue Ribbon Commission on .....	284(6.14Ab)
Nursing, Board of .....	146(1), (7)
Real Property Management Advisory Council .....	284(6.8d)
State Disability Income Plan, the State Death Benefit Plan, and the Separate Insurance Benefits Plan for Law Enforcement Officers, Study Commission on .....	284(30.20b)
Statewide Benefit Committee to Provide a Menu of Portable Supplemental Benefits for all State Employees, Study Commission on Establishment of a .....	284(30.21b)
Traumatic Brain Injury Advisory Council .....	114
Unique Mobility Needs of Urban Areas, Blue Ribbon Commission to Study the .....	383(5b)
Secretary of HHS's appointments	
Traumatic Brain Injury Advisory Council .....	114
Speaker's appointments	
Blount Street Historic District Oversight Committee .....	404(3b)
Cervical Cancer Elimination Task Force .....	176
Clean Water Management Trust Fund Board .....	422
Disciplinary Hearing Commission of the State Bar .....	116(3)
Dorothea Dix Hospital Property Study Commission .....	314(3.4b)
E-NC Authority .....	425(1)
Executive Budget Act Revisions, Joint Committee on .....	284(6.12a)
Highway Trust Fund Study Committee .....	284(29.12b)
Medicaid Reform, Blue Ribbon Commission on .....	284(6.14Ab)
Nursing, Board of .....	146(1)
Real Property Management Advisory Council .....	284(6.8d)
State Disability Income Plan, the State Death Benefit Plan, and the Separate Insurance Benefits Plan for Law Enforcement Officers, Study Commission on .....	284(30.20b)
Statewide Benefit Committee to Provide a Menu of Portable Supplemental Benefits for all State Employees, Study Commission on Establishment of a .....	284(30.21b)
Traumatic Brain Injury Advisory Council .....	114
Unique Mobility Needs of Urban Areas, Blue Ribbon Commission to Study the .....	383(5b)

<b>Appropriations</b> ( <i>see also</i> particular agency)	
Authorization for expenditures .....	284(6.1)
Block Grants	
Changes subject to Governmental Operations review .....	284(5.1d)
Child care and development fund block grant .....	284(5.1a)
Community services block grant.....	284(5.1a)
Decreases in federal fund availability .....	284(5.1b)
Federal funds availability .....	284(5.2b)–(5.2c)
Increases in federal fund availability .....	284(5.1c)
Low-income energy block grant .....	284(5.1a)
Maternal and child health block grant.....	284(5.1a), (5.1f)
Mental health services block grant.....	284(5.1a)
NER block grants .....	284(5.2a)
Preventative health services block grant .....	284(5.1a)
Social services block grant.....	284(5.1a)
Substance abuse prevention and treatment block grant .....	284(5.1a)
TANF block grant .....	284(5.1a)
Budget adjustments.....	283
Budget code adjustments .....	284(6.3a)–(6.3b)
Budget process financial management practices study .....	284(6.12b)
Capital Appropriations	
Advance planning of capital improvement projects .....	284(31.9)
Appropriations limits reversion or lapse .....	284(31.10)
Disbursement of capital funds.....	284(31.3)
Encumbered appropriations and project reserve funds .....	284(31.4)
Intent to fund partially completed capital projects.....	284(31.11)
New project authorization .....	284(31.8)
Project cost increase .....	284(31.7)
Repairs and Renovations Reserve funds expenditures .....	284(31.5)
Water resource development projects .....	284(31.1)
Contingency and Emergency Fund	
Allocations .....	284(6.4a)
Replenishment.....	283(5)
Current Operations	
General Fund	
Availability statement .....	284(2.2a)
Conflicts of Interest Global Settlement funds for education .....	284(2.2i)
Contingency and emergency.....	284(2.1)
Debt service .....	284(2.1)
Education .....	284(2.1)
General government.....	284(2.1)
Health and human services .....	284(2.1)
Justice and public safety .....	284(2.1)
Mental Health, Developmental Disabilities, and Substance	
Abuse Services Trust Fund.....	284(2.1)
Natural and economic resources .....	284(2.1)
Reserve for compensation increases .....	284(2.1), (8.11)
Reserve for retiree health benefits .....	284(2.1)
Reserve for salary adjustments .....	284(2.1)

**Appropriation—continued**

Current Operations—continued

General Fund—continued

Reserve for State Health Plan .....	284(2.1)
Reserve for teachers and State employees retirement contribution.....	284(2.1)
Reserve for transfer of various benefit plans .....	284(2.1)
Reserve to implement HIPPA.....	284(2.1)
Reserves, adjustments and debt service.....	284(2.1)
State surplus real property system .....	284(2.1)
Transportation.....	284(2.1)
Highway Fund.....	284(3.1)
Availability statement.....	284(3.1)
Highway Trust Fund.....	284(4.1)
Disaster Relief Fund	
Transfers for General Fund appropriations.....	284(2.2d)
Expenditures of funds in reserves.....	284(6.19)
General Fund availability statement.....	284(2.2a)
Health and Wellness Trust Fund	
Transfer of new settlement funds for General Fund appropriations.....	284(2.2k)
Transfers for General Fund appropriations.....	284(2.2c)
Highway Fund	
Anticipated revenues.....	284(29.1a)
Highway Trust Fund	
Administration allocation reduction.....	284(29.4)
Anticipated revenues.....	284(29.1b)
Federal-aid highway funds matching funds .....	284(29.22)
Local and metropolitan planning organization funds .....	284(29.14a)–(29.14c)
Transfer to account for lost sales tax revenue.....	284(2.2j)
HIPAA reserve.....	284(6.6)
Law on receipts retained.....	283(6)
No expenditure of unbudgeted receipts .....	284(6.2)
Repairs and Renovations Reserve Account	
Indebtedness ceiling.....	284(46.1)
State Capital Facilities Finance Act.....	284(46.2)–(46.4d)
Transfer of unreserved credit balance .....	284(2.2f)
Reserve for Special Funds transfer.....	284(6.23a)–(6.23b)
Revenue shortfall contingency .....	283(4)
Savings Reserve Account	
Transfers.....	284(2.2e)
State Capital Facilities Finance Act.....	284(46.2)–(46.4d)
Tobacco Trust Fund	
Transfers for General Fund appropriations.....	284(2.2b)
Transfer of new settlement funds for General Fund appropriations.....	284(2.2k)
Transfers between line items .....	284(6.22)
Wireless Fund	
Transfers for General Fund appropriations.....	284(2.2h)

<b>Aquaculture</b> —Western Core Sound shellfish cultivation leases .....	64
<b>Arbitration</b> — <i>see</i> Mediation and Arbitration	
<b>Arboretum Board of Directors</b> —appointments and membership .....	102
<b>Armed Forces</b>	
Base realignment and closure funds .....	284(6.4a)
Buffalo Soldiers license plate .....	424(2)
Community college tuition assistance .....	284(8.16a)–(8.16b)
Confidential license plates and drivers licenses for	
Department of Defense agents .....	152(3)–(4)
Discharge document access .....	248
Drivers license	
Military designation .....	152(1)
Vision test exemption.....	152(2)
POW/MIA license plate.....	424(2)
Public school staff pay during military duty .....	301
Uniformed and overseas voting.....	226(18)–(20)
Veterans Administration police assistance to State and	
local agencies.....	36
Veterans Day a holiday for school personnel.....	131
Waived deadlines, fees, and penalties for deployed personnel .....	300
<b>Arts</b>	
Artistic, creative contracts for minors .....	207
Folk moot USA official State international festival .....	315
<b>Asheboro, City of</b> —State Aviation Hall of Fame official location	
at Asheboro airport .....	363
<b>Asheville, City of</b>	
Colburn Gem and Mineral Museum grassroots science program	
grant-in-aid .....	284(11.1a)
Health Adventure Museum grassroots science program grant-in-aid .....	284(11.1a)
Pack Place Education, Arts and Science Center grassroots science	
Program grant-in-aid .....	284(11.1a)
Pretowing notices.....	165
UNC-Asheville — <i>see</i> University of North Carolina	
Western North Carolina Nature Center grassroots science program	
grant-in-aid .....	284(11.1a)
<b>Assisted Living Facilities</b> — <i>see</i> Nursing Homes	
<b>Association of Community Development Corporations</b> — <i>see</i>	
Community Development Corporations, Association of	
<b>Atlantic States Marine Fisheries Compact and Commission</b> —	
appointments and membership .....	92
<b>Attorney General</b>	
Reciprocal concealed handgun permits .....	199
Salary .....	284(30.1b)
Telephone solicitation restrictions.....	411
<b>Attorneys</b>	
Attorneys defined as court officer .....	140(10)
Collaborative law procedures for divorce .....	371
Guardian ad litem clarifications.....	236(3)–(4)
Legal Education Assistance Foundation funds report .....	284(14.6)



<b>Attorneys—continued</b>	
Locksmith board may hire .....	350(4)
Out-of-state attorney practice limitations .....	116(1)
<b>Auctions and Auctioneers</b>	
Surplus/confiscated property sale by electronic auction .....	284(18.6a)–(18.6c)
Vehicle auctions do not require motor vehicle dealer licenses .....	265
<b>Audits and Auditing—see</b> Accounting and Auditing	
<b>Aurora, Town of—Fossil Museum grassroots science program grant-in-aid .....</b>	284(11.1a)
<b>Authorities (see also</b> Commissions, Committees, Councils and Boards; Task Forces)	
Airport Authorities —see Aviation	
Crematory Authority —see that heading	
E-NC Authority —see that heading	
Rural Internet Access Authority —see that heading	
Setoff debt collection for sewer and water authorities .....	333
<b>Avery County</b>	
Avery County Fire Commission.....	272
Beech Mountain, Town of —see that heading	
<b>Aviation</b>	
Airport Authorities	
Amend Greensboro territorial boundary with Piedmont Triad International Airport Administration .....	202
Halifax authority renamed.....	318(1)–(2)
Installment contracts authorized for certain authorities .....	259(1)
Long-term leases with US authorized for Stanly County .....	259(3)
Public enterprise billing information privacy law airport exclusion .....	287
State Aviation Hall of Fame official location at Asheboro airport .....	363
State Museum of Aviation official location at Wilmington airport .....	363

## B

<b>Bail—see</b> Surety and Fidelity	
<b>Bald Head Island, Village of</b>	
Eminent domain authority granted for beach erosion, flood control, hurricane protection, and beach access .....	282
<b>Banking Commission</b>	
Appellate procedure.....	63(2)
Commissioner of Banks	
Appointment of hearing officer.....	63(3)
Salary.....	284(30.3)
<b>Banks—see</b> Financial Services	
<b>Beaufort County</b>	
Aurora, Town of —see that heading	
TANF electing county .....	284(10.49c)–(10.49d)
<b>Beaufort, Town of</b>	
Beaufort Harbor maintenance dredging .....	284(31.2a)
Satellite annexation.....	204

<b>Beech Mountain, Town of</b> —golf cart and utility vehicle regulation.....	124
<b>Bertie County</b>	
Meherrin Tribe recognition.....	54(2)
New prisons lease-purchase.....	284(47.2)
<b>Bids and Bidding</b> — <i>see</i> Contracts and Purchases	
<b>Bill Lee Act</b> .....	416(2)
<b>Biotechnology</b> ( <i>see also</i> DNA (Deoxyribonucleic Acid))	
Economic development and training district creation .....	418
<b>Biotechnology Center</b>	
Appropriations	
Current operations .....	284(2.1)
Funding direction.....	284(12.10b)
Funds recapture.....	284(12.10a)
Reports — <i>see</i> that heading	
<b>Birth Certificates</b> — <i>see</i> Records	
<b>Birth Control</b> — <i>see</i> Family Planning	
<b>Bladen County</b>	
Add and remove certain lands from the State Nature and Historic Preserve .....	234
Bladenboro, Town of — <i>see</i> that heading	
Indian Cultural Center Board appointments.....	260
Property disposal at private sale by Board of Education.....	122
<b>Bladenboro, Town of</b> —voluntary satellite annexation .....	30
<b>Blount Street Historic District Oversight Committee</b> — created.....	404(3a)–(3c)
<b>Blowing Rock, Town of</b> —occupancy tax revisions .....	281(13)–(14)
<b>Boards</b> — <i>see</i> Commissions, Committees, Councils and Boards	
<b>Boating</b> — <i>see</i> Recreation and Leisure	
<b>Boone, Town of</b> —parking regulation at Appalachian State .....	213
<b>Bridges</b> — <i>see</i> Roads and Highways	
<b>Brunswick County</b>	
Bald Head Island, Village of — <i>see</i> that heading	
Carolina Shores, Town of — <i>see</i> that heading	
Caswell Beach, Town of — <i>see</i> that heading	
Oak Island, Town of — <i>see</i> that heading	
Ocean Isle Beach, Town of — <i>see</i> that heading	
Sunset Beach, Town of — <i>see</i> that heading	
Sunset Harbor, Town of — <i>see</i> that heading	
<b>Budget and Management, Office of State</b>	
Appropriations .....	284(2.1)
Budget code adjustments .....	284(6.3a)–(6.3b)
Criminal record checks fee adjustment study.....	284(14.5b)
Explornet audit.....	284(7.31)
High-level officers compensation study .....	284(30.15)
Information technology operation centralization analysis and plan for DHHS.....	284(10.8Aa)–(10.8Ac)
IT budget structure review.....	284(21.1)
Non-State entity reports on use of State funds .....	284(6.21)

**Budget and Management, Office of State**—continued

Public School Building Capital Fund transferred to  
Dept. of Public Instruction ..... 284(7.33a)–(7.33b)  
Repairs and Renovations Reserve funds expenditures ..... 284(31.5)  
Reports —*see* that heading  
Retirement Systems Division of State Treasurer  
staffing analysis follow-up ..... 284(28.4a)–(28.4b)  
Revenue shortfall contingency ..... 283(4)  
Review and evaluation of budget practices ..... 284(6.2Aa)–(6.2Ab)  
Transfers between line items ..... 284(6.22)

**Budget, Director of the**—*see* Budget and Management,  
Office of State

**Budgeting**—*see* Appropriations

**Building Codes**

Erection of pre-engineered structures by local/State  
government ..... 305  
Modular homes minimum standards ..... 400(17)  
Order to repair residential property not meeting code in  
Greensboro ..... 76  
Plumbing exemption for bleacher addition to existing field at  
UNC Wilmington ..... 239  
Repair of residential property not meeting code in  
Roanoke Rapids ..... 320(2)  
Sprinklers in bars and clubs  
Carrboro ..... 237(1)  
Chapel Hill ..... 237(1)

**Buildings**

Demolition of unsafe residential buildings in community  
development areas of certain cities ..... 23; 42  
Erection of pre-engineered structures by local/State  
government ..... 305  
Financing of new psychiatric hospital at Butner ..... 314  
Historic structures  
Blount Street historic district property sale ..... 404  
Demolition regulation in Apex ..... 88(2)  
Rehabilitation certification and fees ..... 284(35A.1)–(35A.3)  
Penalty for damaging a public building with an  
explosive device ..... 392(3c)  
Sale and lease-back of State-owned property study ..... 284(6.8f)  
State-owned surplus real property system ..... 284(6.8a)–(6.8g)

**Buncombe County**

Asheville, City of —*see* that heading  
Buncombe Youth Detention Center operation ..... 284(15.8)

**Burke County**—add and remove certain lands from the

State Nature and Historic Preserve ..... 234

**Buses**—*see* Education; Public Transportation

**Business**—*see* Commerce

<b>Butner</b> .....	346(1)
Advisory Council elections.....	346(1)
Community land reservation .....	284(10.8)
New psychiatric hospital financing .....	314
Police and fire protection district jurisdiction .....	346(3)
Special police jurisdiction.....	346(2)
<b>Butner Advisory Council</b> —election of members .....	346(1)

**C**

<b>Cabarrus County</b>	
Annexation for economic development zone .....	326(2)
Annexation moratorium for certain municipalities .....	326(1)
Electronic public notice in lieu of publication.....	81
Local boards of education E-Procurement system use pilot program .....	147
TANF waiver changes .....	284(10.49b)
Work over welfare demonstration program.....	188
<b>Caldwell County</b>	
Blowing Rock, Town of — <i>see</i> that heading	
TANF electing county .....	284(10.49c)–(10.49d)
<b>Campaign Finance</b> ( <i>see also</i> Elections)	
Election Fund created .....	12
<b>Cancer</b> — <i>see</i> Diseases; Public Health	
<b>Cancer Coordination and Control, Advisory Committee on</b> —	
cervical cancer screening coverage.....	186
<b>Capital Punishment</b> —Center for Death Penalty Litigation funds.....	284(13.10)
<b>Carolina Beach, Town of</b>	
Beach renourishment .....	284(31.2a)
Wheel locks authorized.....	240
<b>Carolina Shores, Town of</b>	
Annexation.....	78
Board of Commissioners membership .....	78
<b>Carolinas Partnership, Inc.</b>	
Allocations.....	284(12.7a)–(12.7b), (12.8d)–(12.8e)
Reports — <i>see</i> that heading	
<b>Carrboro, Town of</b> —sprinklers in bars and clubs .....	237(1)
<b>Carteret County</b>	
Beaufort, Town of — <i>see</i> that heading	
Bogue Banks shore protection study .....	284(31.2a)
Morehead City, City of — <i>see</i> that heading	
<b>Cary, Town of</b> —acquisition of property for future utilities lines.....	74
<b>Cashiers, Town of</b> —charter repealed .....	75(1)
<b>Cashiers, Village of</b> —incorporation.....	75(2)–(8)
<b>Caswell Beach, Town of</b> —eminent domain authority for beach erosion, flood control, hurricane protection, and beach access .....	282

<b>Catawba County</b>	
Catawba Valley Community College — <i>see</i> Community Colleges	
Claremont, City of — <i>see</i> that heading	
Conover, City of — <i>see</i> that heading	
Hickory, City of — <i>see</i> that heading	
Newton, City of — <i>see</i> that heading	
<b>Catawba River</b> —River Basin water quality rules extension.....	340(5)
<b>Cervical Cancer Elimination Task Force</b> —created.....	176
<b>Chadbourn, Town of</b> —annexation .....	18
<b>Chapel Hill, Town of</b>	
Special use permit approval postponement on school sites.....	237(2)
Sprinklers in bars and clubs.....	247
UNC-Chapel Hill — <i>see</i> University of North Carolina	
<b>Charitable Contributions</b> — <i>see</i> Corporations, Non-Profit	
<b>Charlotte, City of</b>	
Discovery Place grassroots science program grant-in-aid.....	284(11.1a)
Johnson and Wales University funds.....	284(12.4Aa)–(12.4Ab)
Law enforcement emergency pension fund.....	323
Mentor teacher pilot program.....	284(7.30c)
Purchase of supplies and equipment for public transit needs.....	197
Traffic control camera pilot program .....	280(1), (4)
<b>Charter Schools</b> — <i>see</i> Education	
<b>Charters</b>	
ABC proceeds distribution for Albemarle.....	121(2)
Agricultural land exempt from zoning in Wentworth .....	330
Board of Commissioners membership for Carolina Shores .....	78
Cashiers repealed.....	75(1)
Cashiers Village incorporated.....	75(2)–(8)
City manager contract authority for Greensboro .....	134
Condemnation authority for Apex.....	88(1)
Conditional zoning for Wilmington .....	162
Consolidation	
Granite Quarry.....	203
Holly Springs.....	73
Mount Airy.....	281(1)–(10)
Peachland .....	328(2a)–(2i)
Polkton .....	328(3a)–(3i)
Rocky Mount.....	327
Dallas delegation of authority to remove/suspend employees .....	22
Disclosure of police disciplinary records in Wilmington.....	238
Durham annexation.....	26
Durham Housing Appeals Board to hear public health nuisance cases.....	51
Eden modernization .....	82
Electronic notification of public hearings for Raleigh .....	161(1)
Greensboro Board of Alcohol Control membership increase .....	33
Mayor and aldermen term extension for Landis.....	126
Mayor and Town Council changes for Oak Island.....	84
Mills River incorporation .....	242

<b>Charters—continued</b>	
Misenheimer incorporation.....	268
Parking ordinance adoption and enforcement for Salisbury .....	130
Purchase of supplies and equipment for public transit needs	
in Charlotte .....	197
Sprinklers in bars and clubs in Carrboro .....	237(1)
Sunset Harbor incorporation.....	317
Traffic control decisions by Durham City Manager.....	85
Wadesboro mayor's term .....	190(1)
Wadesboro municipal elections .....	190(2)
Wilmington settlement of claims by City Manager.....	41
<b>Cherokee County</b>	
Andrews, Town of — <i>see</i> that heading	
<b>Child Abuse</b>	
Cooperation in child abuse and neglect investigations.....	407(2)
Protective services entry in to private home.....	304(4.1)
Service of summons change .....	304(1)
<b>Child Care—<i>see</i> Day Care</b>	
<b>Child Care Facilities Act</b> .....	192
<b>Child Custody</b>	
Appointment of guardian.....	140(9a)–(9d)
Child custody orders pilot program .....	381(2a)–(2c)
<b>Child Support</b>	
Clarification and enhancements.....	288
Program enhanced standards .....	284(10.44a)–(10.44c)
<b>Chiropractic Examiners, State Board of—licensure</b>	
examination changes.....	154
<b>Chowan County</b>	
Pembroke Creek no-wake zone .....	189(1)–(5)
Subdivision definition.....	79
<b>City Councils—<i>see</i> particular city</b>	
<b>Claremont, City of</b>	
Annexation.....	244(2)
Deannexation .....	244(1)
<b>Clay County—joint development activities authorized</b>	
with county in adjoining state .....	127
<b>Clean Smokestacks Act</b> .....	37
<b>Clean Water Management Trust Fund Board—appointments</b>	
and membership .....	422
<b>Cleveland County</b>	
Add and remove certain lands from the State Nature and Historic Preserve .....	234
Kings Mountain, City of — <i>see</i> that heading	
<b>Clinton, City of—demolition of unsafe residential buildings in</b>	
community development areas .....	42
<b>Coalition of Farm and Rural Families—<i>see</i> Farm and Rural Families,</b>	
Coalition of	

**Coastal Resources** (*see also* Ports)

Authority granted to certain cities for beach erosion, flood control,  
hurricane protection, and beach access ..... 282

Beach Plan

Policy issuance deadline..... 158(3.1)

Risk mitigation incentives..... 158(2)

Surcharges ..... 158(3)

Underwriting guidelines..... 158(1)

Beach renourishment

Carolina Beach ..... 284(31.2a)

Kure Beach..... 284(31.2a)

Ocean Isle Beach..... 284(31.2a)

Bogue Banks shore protection study ..... 284(31.2a)

Carolina Beach marina and fee..... 284(35.1Aa)–(35.1Ad)

Coastal habitat protection plan deadline..... 111

Coastal recreation waters monitoring rules ..... 149

Crystal Coast license plate..... 424(2)

Currituck Sound water management study..... 284(31.2a)

NC Coastal Federation license plate..... 68

Oregon Inlet Project funds..... 284(12.1b)

Permanent coastal erosion control structures prohibited..... 427(3)

Riprap sills for wetland enhancement and shoreline  
protection permit rules..... 427(1)–(2)

Surf City/North Topsail beach protection study..... 284(31.2a)

Wanchese Seafood Industrial Park funds ..... 284(12.1a)

**Coastal Resources Commission**

Permanent coastal erosion control structures prohibited..... 427(3)

Riprap sills for wetland enhancement and shoreline  
protection permit rules..... 427(1)–(2)

**Colleges and Universities** (*see also* Community Colleges;

University of North Carolina)

Delta Sigma Theta Sorority license plate ..... 424(2)

Hazing prohibition ..... 299

High school students in college level courses study..... 284(7.36)

Johnson and Wales University funds..... 284(12.4Aa)–(12.4Ab)

Legal Education Assistance Foundation funds report ..... 284(14.6)

Nonsmoking areas ..... 292

Postsecondary degree institutions to provide  
meningococcal immunization..... 194

Private university law enforcement jurisdiction in  
Durham ..... 329(2)

State grants for students in private institutions..... 429

Veterans scholarship funding from Escheat Fund..... 284(18.5a)–(18.5c)

**Columbus County**

Chadbourn, Town of —*see* that heading

Collection of unpaid water and sewer service fees..... 270

Electrofishing for catfish allowed..... 21

Indian Cultural Center Board appointments..... 260

Lake Waccamaw, Town of —*see* that heading

## Commerce

Alcohol discounts eliminated .....	284(45A2a)–(45A.2b)
Antique and specialty vehicle temporary license to sell .....	113(1)
Artistic, creative, and athletic contracts for minors.....	207
Cervid (deer) regulation.....	344
Commercial drivers license federal compliance.....	397(1)–(4)
Commercial turtle production study.....	284(10A.1)
Conform insurance laws to NAIC statutory accounting principles .....	212(4)–(13)
Conform to streamlined sales and use tax agreement.....	284(45.1)–(45.12)
Construction prior to or expansion of existing air quality permit.....	428
Contract prohibitions against printer cartridge refilling unenforceable .....	386
Cremation law improvements and strengthening .....	420(2)
Economic development and training district creation .....	418
Electric membership corporation proxy vote sunset removed .....	24
Employee status of truck/tractor trailer driver for workers' compensation.....	235
Employment — <i>see that heading</i>	
Farm machinery agreement termination notification .....	195
Film Industry Development Account created.....	284(12.6Aa)–(12.6Ad)
Forms of businesses clarification for unemployment insurance.....	67(1)
Hazardous waste fee .....	284(35.2a)–(35.2c)
Hosiery Technology Center funds.....	284(8.7)
Initial deposit increase for foreign or alien insurers.....	212(1)–(3)
Insurance customer information protection.....	262
Insurance regulatory charge.....	284(33.1a)–(33.1b)
Licensed electrical or heating and plumbing contractors direct bid on public building project .....	231
Motor fuel tax change.....	349(10.1)–(10.16)
Motor vehicle dealers	
Franchise clarification .....	113
Trailer definition exclusion.....	254
Motor vehicle total loss claim and damage disclosure.....	258
Mutual insurance companies governing directors.....	212(14)–(16)
No credit, charge, or debit card numbers on receipt.....	206
No unemployment insurance refunds for employers converting from taxable to reimbursable status .....	220(4)
Nursery dealer certification fees.....	284(35.3b)
One North Carolina-Industrial Recruitment	
Competitive Fund.....	284(12.4a)–(12.4e)
Out-of-state attorney practice limitations .....	116(1)
Out-of-state wine shipments.....	402
Plumbing and heating retailers	
Clarification.....	31
Exemption effective date.....	2
Price gouging prohibited.....	412



**Commerce—continued**

Public utilities regulatory fee.....	284(32.1a)–(32.1c)
Qualified business investments tax credits expansion.....	414(1)–(6)
Removal of territory from research and production district.....	187
Sales representative commissions.....	331
Secretary of State fees.....	284(35B.1a)–(35B.3b)
Shareholder dissenter's rights in majority consent action.....	157
Small brewery production ceiling increase.....	430
State ports tax credit extension.....	414(7)–(8)
Sunset on secondary supplier service to municipalities removed.....	24
SUTA dumping increased penalties.....	67(2)
Taxes and Assessments — <i>see</i> that heading	
Telecommunications relay service surcharge applied to wireless.....	341
Telephone solicitation restrictions.....	411
Tobacco discounts eliminated.....	284(45A.1a)–(45A.1d)
Towing notification requirements.....	336
Transportation services for trade shows.....	284(29.17)
Unemployment insurance — <i>see</i> Insurance	
Wanchese Seafood Industrial Park funds.....	284(12.1a)
Workers' compensation self-insurance licensing.....	212(24)–(25)

**Commerce, Department of**

Appropriations

Biotechnology Center.....	284(2.1)
Community development block grant.....	284(5.2a)
Council of Government.....	284(12.2a)–(12.2e)
Critical infrastructure needs funds.....	284(5.2g)
Current operations.....	284(2.1)
Entrepreneurial needs and small business assistance.....	284(5.2g)
Industrial Development Fund reduction.....	284(12.5a)–(12.5b)
Johnson and Wales University funds.....	284(12.4Aa)–(12.4Ab)
One North Carolina - Industrial Recruitment Competitive Fund.....	284(12.4a)–(12.4e)
Oregon Inlet Project.....	284(12.1b)
Regional Economic Development Commissions allocations.....	284(12.7a)–(12.7b), (12.8d)–(12.8e)
Rural Economic Development Center.....	284(2.1)
Tourism promotion.....	284(12.3)
Wanchese Seafood Industrial Park.....	284(12.1a)
Worker Training Trust Fund.....	284(12.6a)–(12.6d)
Community development nonprofit organizations capacity for eligible activities.....	284(5.2e)
Community revitalization grant distribution program.....	284(5.2h)

**Commerce, Department of**—continued

Division of Tourism, Film and Sports Development	
Film Industry Development Account	
Created .....	284(12.6Aa)–(12.6Ad)
Funds do not revert .....	284(12.6E)
Wilmington Regional Film Commission funds .....	284(12.6Da)–(12.6Dc)
E-NC Authority —see that heading	
Global TransPark Development Commission board	
structure study .....	284(12.8f)
Rural Economic Development Center	
Appropriations —see Appropriations, this heading	
Secretary's salary .....	284(30.2)
Technical corrections and conforming changes .....	340(1.10)

**Commissions, Committees, Councils and Boards** (*see also*

Authorities; Task Forces)

ABC Boards (Local) —see that heading	
Arboretum Board of Directors —see that heading	
Atlantic State Marine Fisheries Compact and Commission —see that heading	
Cancer Coordination and Control, Advisory Committee on —see that heading	
Chiropractic Examiners, State Board of —see that heading	
Clean Water Management Trust Fund Board —see that heading	
Coastal Resources Commission —see that heading	
Community Colleges, State Board of —see that heading	
Crime Commission, Governor's —see that heading	
Criminal Justice Education and Training Standards Commission —see that heading	
Criminal Justice Information Network Governing Board —see that heading	
Currituck Game Commission appointments.....	16
Deaf and Hard of Hearing, Council for —see that heading	
Dental Examiners, State Board of —see that heading	
Drought Management Advisory Council —see that heading	
Durham Firemen's Supplemental Retirement System Board	
membership .....	325(1)–(2)
Economic Investment Committee —see that heading	
Education, Boards of (Local) —see that heading	
Education Oversight Committee, Joint Legislative —see that heading	
Education, State Board of —see that heading	
Emergency Medical Services Disciplinary Committee —see that heading	
Employment Security Commission —see that heading	
Energy Policy Council —see that heading	
Engineers and Surveyors, State Board of Examiners for —see that heading	
Environmental Review Commission —see that heading	
Executive Budget Act Revisions, Joint Committee on —see that heading	
Funeral Service, North Carolina Board of —see that heading	
General Contractors, North Carolina Licensing Board for —see that heading	
General Statutes Commission —see that heading	
Geographic Information Coordinating Council —see that heading	
Global TransPark Development Commission —see that heading	
Governmental Operations, Joint Legislative Commission on —see that heading	

**Commissions, Committees, Councils and Boards**—continued

Health and Wellness Trust Fund Commission —*see* that heading

Health Services Commission —*see* that heading

Highway Trust Fund Study Committee —*see* that heading

Historical Commission —*see* that heading

Human Relations Commission —*see* that heading

Indian Affairs, State Commission of —*see* that heading

Indian Cultural Center, Inc., Board of the North Carolina —*see* that heading

Industrial Commission —*see* that heading

Information Resources Management Commission —*see* that heading

Inter-Agency Council for Coordinating Homeless Programs —*see* that heading

Lake Lure Marine Commission —*see* that heading

Locksmith Licensing Board —*see* that heading

Marine Fisheries Commission —*see* that heading

Massage and Bodywork Therapy, Board of —*see* that heading

Medicaid Reform, Blue Ribbon Commission on —*see* that heading

Medical Care Commission —*see* that heading

Medication management advisory committees required for nursing  
homes..... 393

Mental Health, Developmental Disabilities, and Substance Abuse  
Services, Joint Legislative Oversight Committee on —*see* that heading

Mortuary Science, Board of —*see* Funeral Service, North Carolina Board of

National Crime Prevention and Privacy Compact Council —*see* that heading

Northeastern North Carolina Regional Economic Development  
Commission —*see* Regional Economic Development Commission,  
Northeastern North Carolina

Private Personnel Service Advisory Council —*see* that heading

Real Property Management Advisory Council —*see* that heading

Regional Economic Development Commission, Northeastern North  
Carolina —*see* that heading

Regional Economic Development Commission, Southeastern North  
Carolina —*see* that heading

Regional Economic Development Commission, Western North  
Carolina —*see* that heading

Regional inter-agency coordinating councils for children from birth to five  
with disabilities and their families created..... 391

Research Triangle Regional Commission —*see* that heading

Roanoke Island Commission —*see* that heading

Rules Review Commission —*see* that heading

School of Science and Mathematics, Board of Trustees —*see* University of  
North Carolina

Science and Technology, Board of —*see* that heading

Social Services Commission —*see* that heading

Soil and Water Conservation Commission —*see* that heading

Southeastern North Carolina Regional Economic Development  
Commission —*see* Regional Economic Development Commission,  
Southeastern North Carolina

**Commissions, Committees, Councils and Boards—continued**

State Disability Income Plan, the State Death Benefit Plan, and the  
Separate Insurance Benefits Plan for Law Enforcement Officers,  
Study Commission on —see that heading

State Health Coordinating Council —see that heading

State Personnel Commission —see that heading

Statewide Benefit Committee to Provide a Menu of Portable  
Supplemental Benefits for all State Employees, Study Commission  
on Establishment of a —see that heading

Statewide trauma system peer review committees ..... 392(2c)

Traumatic Brain Injury Advisory Council —see that heading

Unique Mobility Needs of Urban Areas, Blue Ribbon Commission to  
Study the —see that heading

Utilities Commission —see that heading

Veterinary Medical Board —see that heading

Western North Carolina Regional Economic Development Commission —see  
Regional Economic Development Commission, Western North Carolina

Wildlife Resources Commission —see that heading

Wireless 911 Board —see that heading

Women, Council for —see that heading

**Community Colleges**

Application process for financial assistance..... 52

Automotive training incentive .....284(8.13)

Budget reduction flexibility .....284(8.2)

Business License Information Office transfer to  
community college Small Business Centers plan..... 284(24.1a)–(24.1c)

Catawba Valley Community College  
Hosiery Technology Center funds .....284(8.7)

Community Colleges Instructional Trust Fund created..... 284(8.14a)–(8.14b)

Competitive bids on beverage contracts ..... 284(6.15a)–(6.15b)

Cooperative innovative high school programs ..... 277

Economic development and training district creation ..... 418

Entrepreneurial skills training program funds .....284(12.6b)

Faculty and professional staff salary increases.....284(8.11)

Focused industrial training funds .....284(8.15)

Funding flexibility .....284(8.1)

High school students in college level courses study.....284(7.36)

Johnston Community College  
Weapons permitted on College property for hunting  
with written permission..... 217

Leave sharing..... 9

Literacy lab funds .....284(8.10)

Management flexibility.....284(8.3)

Management information system funds ..... 284(8.9a)–(8.9b)

Mayland Community College  
Private sale of certain property .....320(1)

Nonprofit sponsorship of student ..... 284(8.16Aa)–(8.16Ab)

**Community Colleges—continued**

Occupational continuing education and focused industrial training funds.....	284(8.4)
Personnel salaries.....	284(30.11)
Prospective teacher scholarship funds.....	284(8.8)
Public/private partnerships for construction authorized.....	286
Summer school funding for high-needs industries.....	284(8.5)
Tuition assistance for armed forces personnel.....	284(8.16a)–(8.16b)
Tuition waivers.....	230
Waived deadlines, fees, and penalties for deployed military personnel.....	300

**Community Colleges, State Board of**

Application process for financial assistance.....	52
Appropriations	
Automotive training incentive.....	284(8.13)
Budget reduction flexibility.....	284(8.2)
Carryforward for equipment.....	284(8.6a)–(8.6b)
Community Colleges Instructional Trust Fund.....	284(8.14a)–(8.14b)
Focused industrial training.....	284(8.15)
Funding flexibility.....	284(8.1)
Prospective teacher scholarships.....	284(8.8)
Transfer from Escheat Fund for financial aid.....	284(9.2a)–(9.2d)
Community college tuition assistance for armed forces personnel.....	284(8.16a)–(8.16b)
Comprehensive articulation agreement evaluation.....	284(8.12a)–(8.12h)
Faculty and professional staff salary increases.....	284(8.11)
Financial assistance for students with disabilities.....	385
Leave sharing.....	9
Literacy lab funds.....	284(8.10)
Management flexibility.....	284(8.3)
Private sale of certain property by Mayland Community College.....	320(1)
Public/private partnerships for construction authorized.....	286
Reports — <i>see</i> that heading	
Shared leave for State employees.....	284(30.1Aa)–(30.14Ac)

**Community Colleges System Office**

Appropriations	
Budget reduction flexibility.....	284(8.2)
Carryforward for equipment.....	284(8.6a)–(8.6b)
Comprehensive articulation agreement evaluation transfer.....	284(8.12h)
Current operations.....	284(2.1)
Management information system funds.....	284(8.9a)–(8.9b)
Occupational continuing education and focused industrial training.....	284(8.4)
Summer school funding for high-needs industries.....	284(8.5)
Business License Information Office transfer to community college Small Business Centers plan.....	284(24.1a)–(24.1c)
Cooperative innovative high school programs.....	277

<b>Community Colleges</b> —continued	
Entrepreneurial skills training program funds .....	284(12.6b)
Hosiery Technology Center funds .....	284(12.6b)
<b>Community Development</b> — <i>see</i> Commerce, Department of; Economic Development	
<b>Community Development Corporations, Association of</b>	
Reports — <i>see</i> that heading	
<b>Community Development Initiative</b>	
Reports — <i>see</i> that heading	
<b>Compacts</b> — <i>see</i> Interstate Cooperation	
<b>Confidentiality</b> — <i>see</i> Privacy	
<b>Conover, City of</b> —deannexation .....	244(2)
<b>Conservation</b> ( <i>see also</i> Environment)	
Alternative fuel vehicles license plate .....	424(2)
Coastal habitat protection plan deadline .....	111
Contract prohibitions against printer cartridge refilling unenforceable .....	386
Guaranteed energy savings contracts .....	138
Impact of acquisition of land for conservation on local tax revenues study .....	284(11.7a)–(11.7b)
Reptile and amphibian protection .....	100
Scrap tire, white goods, dry-cleaning solvent tax cannot be applied to nontaxable sales .....	416(19a)–(19c)
Tree clear-cutting limits and tree protection prior to development in certain counties and cities .....	128
Water conservation promotion .....	173
<b>Constitution, North Carolina</b>	
Economic development project financing .....	403
General Assembly cannot contract away its taxing power .....	416(12)
Proceeds of civil penalties, forfeitures, and fines for free public schools .....	423
<b>Construction</b>	
Building construction/renovation for industries contract exemption for Lumberton .....	118
Construction prior to or expansion of existing air quality permit .....	428
General contractor exemption for locksmith requirement .....	350(10.1)
Homeowners recovery fund permit fee increase .....	372
Licensed electrical or heating and plumbing contractors direct bid on public building project .....	231
Plumbing and heating retailers	
Clarification .....	31
Exemption effective date extension .....	2
Public contract exemption for Dare County .....	47
Public/private partnerships for construction authorized .....	286
<b>Consumer Credit</b>	
No credit, charge, or debit card numbers on receipt .....	206
Usury exemption expansion .....	401

**Consumer Protection**

Credit history as sole basis for termination or consent to rate of motor vehicle or residential property coverage prohibited ..... 216

Hospital, medical, and dental service organization readable insurance certificates .....212(17)

Insurance customer information protection ..... 262

Manufactured homes

    Community conversion .....400(5)

    Generally ..... 400

Mental health consumer advocacy program funding contingency .....284(10.10)

Motor vehicle total loss claim and damage disclosure ..... 258

No credit, charge, or debit card numbers on receipt..... 206

Price gouging prohibited..... 412

Purchase agreement cancellation on manufactured home .....400(7)

Telephone solicitation restrictions..... 411

**Continuing Care Facilities—see Nursing Homes**

**Contracts and Purchases—see also Commerce**

Acquisition of property by Polk County Board of Education ..... 89

Agency use of recycled steel products ..... 284(6.10a)–(6.10b)

Building construction/renovation for industries contract exemption for Lumberton..... 118

City manager contract authority for Greensboro ..... 134

Competitive bidding practices for Smart Start .....284(10.38b)

Competitive bids on beverage contracts ..... 284(6.15a)–(6.15b)

Contract prohibitions against printer cartridge refilling unenforceable ..... 386

Cost containment programs for Medicaid .....284(10.191)

Craven County ABC Board law enforcement personnel and services ..... 20

Energy Committed to Offenders Inc. contract for beds .....284(16.13)

Expenditure benchmark increase for purchasing contracts at UNC ..... 312

Financing of new psychiatric hospital at Butner ..... 314

Guaranteed energy savings contracts ..... 138

High-calcium foods and beverages contract preference for schools ..... 257

Impaired veterinary personnel program agreements ..... 139

Installment contracts authorized for certain airport authorities.....259(1)

ITS infrastructure maintenance agreement pilot project ..... 284(21.2a)–(21.2b)

Joint local government development project financing agreements..... 417

Licensed electrical or heating and plumbing contractors direct bid on public building project ..... 231

Mobile medical operating room at Central Prison.....284(16.7)

New prisons lease-purchase..... 284(47.1)–(47.2)

Overpayments audit..... 284(27.1a)–(27.1e)

Public construction contract surety bonds designation of surety company, agent, broker prohibited .....212(27)

Public contract exemption for Dare County ..... 47

**Contracts and Purchases—continued**

Purchase of supplies and equipment for public transit needs in Charlotte..... 197

Purchasing flexibility for local boards of education and E-Procurement system use ..... 147

Recycled, durable, less toxic products purchasing by agencies report.....340(1.6)

Request for information for energy management services.....284(6.13)

School construction/repair contract flexibility for Winston-Salem/Forsyth..... 269

School principal contract term..... 291

Single-prime bidding method allowed for Duplin County.....318(3)

State contracts with entities in tax haven countries prohibited .....413(28)

UNC purchasing flexibility..... 228

Unclaimed property program.....284(28.5)

Volume purchase plans and single source procurement for Medicaid.....284(10.19k)

**Controlled Substances—see Narcotics; Pharmaceuticals; Substance Abuse**

**Corporations, For-Profit (see also Commerce)**

Annual to perpetual licensing of insurance companies .....212(26)

Conform insurance laws to NAIC statutory accounting principles ..... 212(4)–(13)

Corporate report submissions in electronic format.....233(3)

Dividend deduction change ..... 349(1.1)–(1.3)

Document submission requirements for insurance companies .....290(3)

Entrepreneurial needs and small business assistance .....284(5.2g)

Equalize insurance tax rates on Article 65 corporations ..... 284(43.1)–(43.4)

Filing fees nonrefundable ..... 349(7)

Financial interest in motor vehicle repair facility disclosure for insurance companies.....395(1)

Forms of businesses clarification for unemployment insurance .....67(1)

Historic rehabilitation tax credit pass-through entity allocations.....415 (2)

Initial deposit increase for foreign or alien insurers..... 212(1)–(3)

Long-distance telecommunications service regulatory oversight .....91(1)

Marriage and family therapists under professional corporations act ..... 117(3)–(4)

Mechanical breakdown service agreement companies subject to requirements of service agreement companies.....290(4)

Motor vehicle and service agreement companies document submission requirements .....290(2)

Mutual insurance companies governing directors ..... 212(14)–(16)

Net worth requirements for HMOs.....212(21)

Non-State entity reports on use of State funds .....284(6.21)

Qualified business investments tax credits expansion..... 414(1)–(6)

Real property warranty companies to carry contractual liability policies ..... 290(1a)



**Corporations, For-Profit—continued**

Reinspection of workplaces with previous serious safety violations .....	174
Reserve requirement repealed for HMOs .....	212(20)
Self-service storage insurance sales license .....	290(6)
Service agreement company expanded definition .....	290(1b)–(1c)
Shareholder dissenter's rights in majority consent action.....	157
State contracts with entities in tax haven countries prohibited .....	413(28)
State ports tax credit extension .....	414(7)–(8)
SUTA dumping increased penalties .....	67(2)
Telecommunications pricing plan changes.....	91(2)
Unemployment surtax reinstatement .....	405
Use of nonoriginal parts in motor vehicle repairs disclosure for insurance companies.....	395(2)–(3)

**Corporations, Non-Profit** (*see also* Commerce)

Annual to perpetual licensing of insurance companies .....	212(26)
Boys and Girls Clubs block grant funds .....	284(5.1a)
Corporate report submissions in electronic format.....	233(3)
Easter Seals Society block grant funds.....	284(5.1a)
Explornet audit.....	284(7.31)
Filing fees nonrefundable .....	349(7)
Harriet's House report.....	284(16.17a)
Hospital, medical, and dental service organization asset limits .....	212(18)
Legislative food service food donation .....	284(19B.1)
Net worth requirements for HMOs.....	212(21)
New prisons lease-purchase.....	284(47.1)–(47.2)
No expenditure of unbudgeted receipts .....	284(6.2)
No unemployment insurance refunds for employers converting from taxable to reimbursable status .....	220(4)
Nonprofit organizations capacity for CDBG eligible activities .....	284(5.2e)
Non-State entity reports on use of State funds .....	284(6.21)
Nurses license plate fees transferred to Foundation for Nursing for scholarships.....	11
Private agency uniform cost finding requirement .....	284(10.18a)–(10.18b)
Report of solicitors' revenue on percentage of contributions going to charitable organization .....	373
Reporting requirements for various nonprofits .....	284(12.9a)–(12.9b)
Reserve requirement repealed for HMOs .....	212(20)
Summit House report.....	284(16.17b)
Women at Risk report.....	284(16.17c)
YWCA Central Carolinas block grant funds.....	284(5.1a)

**Correction, Department of**

Appropriations

Computer/data processing services .....	284(16.11)
Current operations .....	284(2.1)
Federal grant matching funds .....	284(16.10)
Limit use of operational funds .....	284(16.9)
Closed prison facilities use .....	284(16.5)
Contracted medical positions conversion .....	284(16.8a)–(16.8b)

**Correction, Department of**—continued

Criminal Justice Partnership Program funds use .....	284(16.16a)–(16.16d)
Drug screening of criminal defendants for chemical dependency .....	141
Electronic monitoring outsourcing costs and underutilization .....	284(16.14)
Energy Committed to Offenders Inc. contract for beds .....	284(16.13)
Harriet's House report .....	284(16.17a)
Housing of inmates plan .....	284(16.22)
Inmate costs .....	284(16.6a)–(16.6c)
Limit use of operational funds .....	284(16.9)
Medical liability coverage for health care employees .....	284(10.7a)–(10.7c)
Medium-custody road crew compensation .....	284(16.12a)–(16.12b)
Mobile medical operating room .....	284(16.7)
New prisons lease-purchase .....	284(47.1)–(47.2)
Offender fees collection .....	284(16.15)
Positions/programs eliminated for savings .....	284(13.1b)
Private prison acquisition capital financing .....	284(46A.1a)–(46A.1e)
Probation and Parole — <i>see that heading</i>	
Probation/parole caseloads study .....	284(16.18a)–(16.18c)
Reimburse counties for State inmates, parolees, and supervisees .....	284(16.2)
Reports — <i>see that heading</i>	
Secretary's salary .....	284(30.2)
Security staff shift pay .....	284(16.3)
Security staffing formulas .....	284(16.4a)–(16.4c)
Seized and forfeited property use .....	284(14.1a)–(14.1c)
State agency teachers' compensation .....	284(30.14C)
Summit House report .....	284(16.17b)
Women at Risk report .....	284(16.17c)
Youth development centers capital financing .....	284(46A.2)
<b>Correctional Institutions</b> ( <i>see also Prisoners</i> )	
Closed prison facilities use .....	284(16.5)
Compliance with audit report on youth development and detention centers .....	284(15.9)
Contracted Corrections medical positions conversion .....	284(16.8a)–(16.8b)
Correction, Department of — <i>see that heading</i>	
Electronic monitoring outsourcing costs and underutilization .....	284(16.14)
Energy Committed to Offenders Inc. contract for beds .....	284(16.13)
Halfway houses — <i>see Probation and Parole</i>	
Housing of inmates plan .....	284(16.22)
Inmate costs .....	284(16.6a)–(16.6c)
Inmates eligible for parole report .....	284(16.20)
Involuntary sterilization laws repealed .....	13

**Correctional Institutions—continued**

Juvenile facilities

Allowing juveniles to escape criminal penalties.....297(1)  
Buncombe Youth Detention Center operation.....284(15.8)  
Court approval for placement of juvenile in  
certain programs..... 53  
Photographing of juvenile detainees .....297(2)  
Samarkand Youth Academy timber sale..... 284(15.10a)–(15.10c)  
Youth development centers capital financing.....284(46A.2)

Local confinement facilities to provide health

information of transferred prisoners.....392(1)  
Medium-custody road crew compensation..... 284(16.12a)–(16.12b)  
Mobile medical operating room .....284(16.7)  
New prisons lease-purchase.....284(47.1)–(47.2)  
No expenditure of unbudgeted receipts .....284(6.2)  
Private prison acquisition capital financing.....284(46A.1a)–(46A.1e)

**Corrections, Crime Control, and Juvenile Justice**

**Oversight Committee, Joint Legislative—**

dispute settlement centers study ..... 284(13.15a)–(13.15b)

**Counseling—see Mental Health**

**Counties (see also Local Government; particular county)**

Absentee and one-stop votes reporting..... 183  
Add and remove certain lands from the State Nature  
and Historic Preserve..... 234  
Appeal in juvenile "pay order" cases..... 171  
Area mental health administrative costs ..... 284(10.17a)–(10.17c)  
Bikeways and trails funding authority clarification ..... 256  
Collection of unpaid water and sewer service fees in  
certain counties ..... 270  
Confidential mental health information disclosure  
and sharing..... 313  
County Medicaid cost share..... 284(10.22a)–(10.22b)  
Criminal Justice Partnership Program funds use..... 284(16.16a)–(16.16d)  
Critical infrastructure needs funds.....284(5.2g)  
Divide Superior Court District 19B.....284(13.14a)–(13.14f)  
Economic development and training district creation ..... 418  
Economic development project financing constitutional  
change..... 403  
Federal funds allocations for Smart Start .....284(10.38h)  
Honor retiring or deceased firefighters with presentation  
of fire helmet ..... 145  
Incentives for Medicaid fraud recovery.....284(10.19q)  
Installment contracts authorized for certain airport authorities.....259(1)  
Interest rate swap agreements.....388(4)  
Juvenile crime prevention council grants ..... 284(15.2a)–(15.2b)  
Local health director pilot.....284(10.33C)  
Nash-Rocky Mount Board of Education boundary with  
Edgecombe Board of Education.....346(4)  
Reimburse counties for State inmates, parolees, and supervisees.....284(16.2)

**Counties**—continued

Removal of territory from research and production district.....	187
Revenue bond modifications .....	388(1)–(3)
Self-funded risk program deemed purchase of insurance for waiving immunity .....	175
Small school system supplemental funding.....	284(7.7a)–(7.7f)
State/County Special Assistance Generally .....	284(10.52a)–(10.52f)
Transfer of assets.....	284(10.53a)–(10.53c)
Supplemental funding for low-wealth counties.....	284(7.6a)–(7.6j)
TANF electing counties.....	284(10.49c)–(10.49d)
Tourism promotion funds .....	284(12.3)
Township ABC elections.....	218
Tree clear-cutting limits and tree protection prior to development in certain counties .....	128
Work First county block grant funds.....	284(5.1a)

**County Commissioners**—*see* Counties; particular county;

Public Officials

**Courts**

Administrative Office of the Courts (AOC)

Administrative Officer of the Courts' salary .....	284(30.4a)
Assignment of civil cases pilot project .....	284(13.12a)–(13.12b)
Assistant Officer of the Courts' salary .....	284(30.4a)
Child custody orders pilot program.....	381(2a)–(2c)
Equipment and supplies funds transfer .....	284(13.7)
Positions identified for operational savings .....	284(13.1a)
Worthless check program available statewide .....	377

Appointment of guardian for juvenile .....

Arbitration award conformation under Family Law

Arbitration Act..... 61

Arrest order for failure to appear on misdemeanor citation .....

Artistic, creative, and athletic contracts for minors..... 207

Attorneys defined as court officer .....

Bail —*see* Surety and Fidelity

Civil Procedure

Electronic judgment dockets changes .....	59
Evidence in suspending/revoking a medical license.....	366(3)–(5)
Guardian ad litem clarifications .....	236(3)–(4)
Judgment bonding .....	19
Legal deadlines falling on a holiday clarification.....	337
Revised Uniform Arbitration Act enacted .....	345
Rule 45 subpoena rewrite.....	276
Service of notice.....	308(1)–(7)
Service of summons change for child abuse, neglect, dependency cases .....	304(1)

Clerks of Court

Assistant and deputy clerks' salaries .....

Blood analysis report as basis for revoked license .....

Limited guardianship for incompetents .....

**Courts—continued**

Clerks of Court—continued

Magistrate qualifications .....	381(1)
Personnel flexibility .....	284(30.14B)
Phase II tobacco settlement payments to an estate .....	295
Rule 45 subpoena rewrite .....	276
Salaries .....	284(30.5)

Copy of petition and notice to guardian ad litem .....	140(6)
--	--------

Court approval for placement of juvenile in certain

programs .....	53
----------------	----

Court costs in criminal actions for juveniles repealed .....	140(1)
--	--------

Court fees redirection .....	284(30.19Ba)–(30.19Bb)
------------------------------	------------------------

Court of Appeals

Chief Judge's salary .....	284(30.4a)
----------------------------	------------

Judge's salary .....	284(30.4a)
----------------------	------------

Criminal procedure

Enhanced sentencing amendments .....	378
--------------------------------------	-----

Dispute resolution fee clarification .....	284(13.13)
--	------------

District Court

Chief Judge's salary .....	284(30.4a)
----------------------------	------------

Judge's salary .....	284(30.4a)
----------------------	------------

Juvenile predisposition report .....	140(2)
--------------------------------------	--------

Marriage by judges .....	4
--------------------------	---

Domestic violence protective order definition

clarification .....	107
---------------------	-----

Drug screening of criminal defendants for chemical

dependency .....	141
------------------	-----

Drug treatment court program case manager cost savings .....	284(13.4a)–(13.4b)
--	--------------------

Electronic judgment dockets changes .....	59
---	----

Equitable distribution claim surviving death of spouse .....	168
--	-----

Evidence

Blood analysis report as basis for revoked license .....	104
--	-----

Blood in DWI admissibility clarification .....	95
--	----

Evidence in suspending/revoking a medical license .....	366(3)–(5)
---	------------

Juvenile hearings admissibility clarification .....	62
---	----

Nurse testimonial privilege .....	342
-----------------------------------	-----

Rape kit analyses by private vendor .....	284(14.9)
---	-----------

Rape kits priority .....	284(14.7)
--------------------------	-----------

Rule 103 conforming change .....	101
----------------------------------	-----

Guardian ad litem

Appointments .....	140(7)
--------------------	--------

Clarification .....	236(3)–(4)
---------------------	------------

Judges

Marriage by District Court judges .....	4
---	---

Salaries .....	284(30.4a)
----------------	------------

Juries

Address confidentiality program not available to jury commission .....	278(6)
---	--------

Prevent duplicate names on lists .....	226(7c)–(7d)
--	--------------

<b>Courts—continued</b>	
Legal deadlines falling on a holiday clarification .....	337
Limited guardianship for incompetents .....	236(1)–(2)
Magistrates	
Authorization adjustments .....	284(13.8)
Qualifications .....	381(1)
Salaries .....	284(30.7)
Out-of-state attorney practice limitations .....	116(1)
Parole — <i>see</i> Probation and Parole	
Probation — <i>see</i> Probation and Parole	
Protection of animals civil remedy .....	208
Revised Uniform Arbitration Act enacted .....	345
Sentencing — <i>see</i> that heading	
Service of summons change for child abuse, neglect, dependency cases.....	304(1)
Special probation definition change .....	151
Superior Court	
Blood analysis report as basis for revoked license .....	104
Divide District 19B .....	284(13.14a)–(13.14f)
Fees.....	284(36A.2)–(36A.3)
Judge's salary.....	284(30.4a)
Ordering new elections.....	278(8a)–(8b)
Senior regular resident judge's salary.....	284(30.4a)
Supreme Court	
Associate Justice's salary.....	284(30.4a)
Chief Justice's salary .....	284(30.4a)
<b>Craven County</b>	
ABC Board law enforcement personnel and services .....	20
Hunting from right-of-way prohibited.....	164
<b>Cremation—<i>see</i> Funeral Services</b>	
<b>Crematory Act</b> .....	420
<b>Crematory Authority—created</b> .....	420(2)
<b>Crime Commission, Governor's</b>	
Reports — <i>see</i> that heading	
<b>Crime Control and Public Safety, Department of</b>	
ALE agents subject to State Personnel Act .....	284(17.6)
Appropriations .....	284(2.1)
Criminal Justice Information Network Governing Board transferred from SBI.....	284(17.1a)–(17.1c)
Juvenile Justice Information System .....	284(17.2a)–(17.2b)
Photographic-speed measuring device standards .....	280(2)–(3)
Positions/programs eliminated for savings.....	284(13.1b)
Reports — <i>see</i> that heading	
Secretary's salary .....	284(30.2)
Seized and forfeited property use .....	284(14.1a)–(14.1c)
Special police jurisdiction for Butner .....	346(2)
Tarheel Challenge Program annual evaluation.....	284(17.3)
Technical corrections and conforming changes .....	349(4)

## Crimes

Administration of medication to a child in a child care facility without authorization prohibited .....	406
Allowing juveniles to escape criminal penalties .....	297(1)
Arson resulting in injury to firefighter or emergency medical technician.....	392(3a)–(3b)
Assault in the presence of a minor.....	409
Bulletproof vest during commission of felony enhancement.....	378(4)
Class B1 felony enhanced sentence if victim was 13 or younger .....	378(3)
Confiscation and disposal of deadly weapons.....	378(5)
Controlled substance analogues.....	249
Coyote importation illegal .....	96(2)
DNA samples to be collected from persons convicted of certain crimes.....	376
Domestic violence — <i>see</i> that heading	
Handgun use in felony enhancement.....	378(1)–(2)
Penalty for damaging a public building with an explosive device .....	392(3c)
Persons may not sign name of another to petitions .....	278(7)
Price gouging prohibited.....	412
Pyrotechnic display violations.....	298
Rape crisis/victims' services program block grant funds .....	284(5.1a)
Rape kits	
Analyses by private vendor.....	284(14.9)
Priority.....	284(14.7)
School safety officer indecent contact with student .....	98
Secret peeping statute modification.....	303
Securities fraud prevention .....	413(1)–(27)
Sexual battery offense.....	252
Stalking misdemeanor community punishment requirement.....	181
Teaching certificate immediate revocation for certain crimes .....	408
Unauthorized sound and video recordings .....	159
Unlawful practice of pharmacy .....	284(10.8D)
<b>Criminal Justice Education and Training Standards</b>	
<b>Commission</b> —photographic-speed measuring device standards .....	280(2)–(3)
<b>Criminal Justice Information Network Governing Board</b> —transferred to Crime Control and Public Safety from SBI.....	284(17.1a)–(17.1c)
<b>Criminal Records</b> — <i>see</i> Records	
<b>Cultural Resources</b>	
Folk moot USA official State international festival .....	315
Historic structure rehabilitation certification and fees .....	284(35A.1)–(35A.3)
Museums — <i>see</i> that heading	
Museum admission fees .....	284(35A.4)
<b>Cultural Resources, Department of</b>	
Appropriations .....	284(2.1)
Historic structure rehabilitation certification and fees .....	284(35A.1)–(35A.3)
Museum admission fees.....	284(35A.4)
Secretary's salary .....	284(30.2)

**Cumberland County**

Add and remove certain lands from the State Nature and Historic Preserve..... 234

Child custody orders pilot program ..... 381(2a)–(2c)

Fayetteville, City of —*see* that heading

Indian Cultural Center Board appointments..... 260

Spring Lake, Town of —*see* that heading

Urban loop definition change ..... 284(29.11a)–(29.11b)

**Current Operations and Capital Improvements**

**Appropriations Act of 2003**..... 284

**Curriculum**—*see* Education

**Currituck County**

Annexation or extraterritorial jurisdiction by entity outside of county prohibited ..... 27

Currituck Sound water management study..... 284(31.2a)

Game Commission appointments ..... 16

**D**

**Dallas, Town of**

Annexation..... 279

Delegation of authority to remove/suspend employees..... 22

**Dams**—*see* Lakes and Rivers

**Dare County**

Kitty Hawk, Town of —*see* that heading

Nags Head, Town of —*see* that heading

Oregon Inlet Project funds..... 284(12.1b)

Public contract exemption ..... 47

Wanchese Seafood Industrial Park funds ..... 284(12.1a)

Western Core Sound shellfish cultivation leases..... 64

**Davie County**—collection of unpaid water and sewer service fees ..... 270

**Day Care**

Adult care

Adult day and health centers rate-setting rules ..... 284(10.58)

Certain reports required to be made to Legislative Oversight

Committee on Mental Health ..... 58(3)

Child care

Administration of medication to a child without authorization prohibited ..... 406

Allocation formula ..... 284(10.36a)–(10.36b)

Center licensure fees ..... 284(34.12a)–(34.12b)

Cooperation in child abuse and neglect investigations ..... 407(2)

Dissemination of child care facilities law information to parents..... 196

Eligibility for noncitizen families ..... 284(10.35h)

Enhanced penalties for Child Care Facilities Act violations..... 192

Family child care home licensing fees ..... 284(10.39A)

Federal funds allocations for Smart Start..... 284(10.38h)



<b>Day Care—continued</b>	
Child care—continued	
Lead poisoning prevention .....	150
Local partnership plan approval for Smart Start .....	284(10.38f)
Matching funds requirement .....	284(10.34)
Quality child care initiatives plan for Smart Start.....	284(10.38i)
Revolving Loan Fund use .....	284(10.37)
Safe sleep policy to prevent SIDS.....	407(1)
Subsidies	
Block grant funds.....	284(5.1a), (5.1h)
Expenditures for Smart Start .....	284(10.38g)
Generally.....	284(5.1q)
Rates.....	284(10.35a)–(10.35h)
<b>Deaf and Hard of Hearing, Council for</b>	
Appointments and membership .....	343(2)–(3)
Duties .....	343(1)
<b>Deannexation—see Annexation</b>	
<b>Death and Dying (see also Capital Punishment; Estates; Funeral Services)</b>	
Death of candidate .....	278(4)
Equitable distribution claim surviving death of spouse .....	168
Infant homicide prevention education and awareness.....	284(10.8Ba)–(10.8Bb)
<b>Death Benefits—see Insurance, Life</b>	
<b>Death Certificates—see Records</b>	
<b>Debt-Local Government</b>	
Bad debt charge off.....	349(11)
Economic development project financing constitutional change .....	403
Installment contracts authorized for certain airport authorities .....	259(1)
Interest rate swap agreements.....	388(4)
Joint local government development project financing agreements .....	417
Revenue bond modifications .....	388(1)–(3)
School construction/repair contract flexibility for Winston-Salem/Forsyth.....	269
<b>Debtor and Creditor</b>	
Collection of unpaid water and sewer service fees in certain cities and counties.....	270
Residential tenant late fee.....	370
Setoff debt collection for sewer and water authorities .....	333
Tax collection outsourcing extension .....	349(3)
Worthless check program available statewide.....	377
<b>Debt-State Government</b>	
Bond project modification .....	284(9.3a)–(9.3g)
Financing of new psychiatric hospital at Butner .....	314
Private prison acquisition capital financing.....	284(46A.1a)–(46A.1e)
State Capital Facilities Finance Act.....	284(46.2)–(46.4d)
Structural pest control training facility capital financing .....	284(46A.3)
UNC special obligation bonds revision .....	357
Youth development centers capital financing .....	284(46A.2)

<b>Deeds</b>	
Henderson may accept deed subject to deed of trust.....	322(2)
Subordination agreement requirements clarification.....	219
Surrender of manufactured home title .....	400(1)–(4)
<b>Dental Examiners, State Board of</b> —fee increase .....	348(1)–(2)
<b>Dentistry</b>	
Medicaid coverage limits.....	284(10.19g)
Medical liability coverage for certain State health care employees .....	284(10.7a)–(10.7c)
<b>Deoxyribonucleic Acid (DNA)</b> — <i>see</i>	
DNA (Deoxyribonucleic Acid)	
<b>Developmentally Disabled</b> — <i>see</i> Disabled Persons; Mental Health	
<b>Disabled Persons</b>	
Children with disabilities education funds .....	284(7.13)
Community Alternatives Program for Disabled Adults	
Audit.....	284(10.29Ba)
Review.....	284(10.29Bb)–(10.29Bc)
Community college financial assistance for students with disabilities.....	385
Developmentally disabled waiting list for services block grant funds .....	284(5.1a)
Medicaid income eligibility standards.....	284(10.19e)
Medicaid services for students with disabilities collaboration .....	284(10.29A)
Medical certificates from out-of-state physicians for certain drivers license applicants.....	14
Mental retardation center	
Downsizing.....	284(10.14a)–(10.14d)
Transition plans .....	284(10.15a)–(10.15c)
Regional inter-agency coordinating councils for children from birth to five with disabilities and their families created .....	391
Residential schools reporting.....	284(10.41)
Schools for the deaf attendance eligibility .....	253
<b>Disasters and Emergencies</b> ( <i>see also</i> Emergency Management)	
Disaster Relief Fund transfers for General Fund appropriations .....	284(2.2d)
Drought Management Advisory Council created .....	387(2)
Drought recovery funds .....	284(5.2f)
Job protection for volunteer emergency workers .....	103
Price gouging prohibited.....	412
State agency business continuity planning .....	153(2)
Unemployment benefits due to industrial disaster .....	1
<b>Disciplinary Hearing Commission of the State Bar</b> —appointments and membership .....	116(3)

**Discrimination**

Complaints by fair housing organizations to Human Relations Commission.....	136
Involuntary sterilization laws repealed.....	13
Offensive place-names.....	211

**Diseases**

Asbestosis/silicosis examination under workers' compensation .....	284(10.33a)–(10.33f)
Breast cancer awareness license plate .....	424(2)
Cervical Cancer Elimination Task Force created .....	176
Contagious animal disease State Veterinarian provisions sunset extension.....	6

**District Attorneys**

Longevity service equalization for district attorneys and public defenders.....	284(30.19Aa)–(30.19Ad)
Salaries.....	284(30.4b)

**Divorce**

Arbitration award conformation .....	61
Collaborative law procedures .....	371
Equitable distribution claim surviving death of spouse .....	168

**DNA (Deoxyribonucleic Acid) (see also Courts, Evidence)**

DNA samples to be collected from persons convicted of certain crimes .....	376
--	-----

**Domestic Animals—see Animals****Domestic Violence**

Assault in the presence of a minor.....	409
Domestic violence services for Work First families .....	284(5.11)
Exemption from disqualification of unemployment for domestic violence, sexual offense, or stalking .....	220(3)
Possession of firearm by person subject to domestic violence order .....	409(2)
Protective order definition clarification.....	107
Services for Work First families.....	284(5.1a), (5.11)
Surrender of firearms.....	409(1)

**Dorothea Dix Hospital Property Study Commission—created .....** 314(3.4b)**Drivers Licenses**

Commercial license federal compliance.....	397(1)–(4)
Confidential licenses for Department of Defense agents .....	152(3)–(4)
Driver education privatization study .....	284(29.7)
Driving eligibility certificates funds.....	284(7.26)
Driving While Impaired (DWI) —see that heading	
Fees .....	284(36.1)–(36.2)
Leaving the scene of an accident penalties.....	394
Medical certificates from out-of-state physicians for certain applicants .....	14
Military designation.....	152(1)
Military exempt from vision test .....	152(2)
Motorcycle endorsement fee.....	284(36.1)–(36.2)
S-endorsement for school bus operator .....	397(5)
Waived deadlines, fees, and penalties for deployed military personnel.....	300

<b>Driving While Impaired (DWI)</b>	
Blood analysis report as basis for revoked license .....	104
Blood evidence admissibility clarification .....	95
Private DWI offender services facility .....	396(1), (3)–(4)
Special probation definition change .....	151
<b>Drought Management Advisory Council—created</b> .....	387(2)
<b>Drug Testing—see</b> Alcoholic Beverages; Driving While Impaired (DWI); Narcotics; Testing	
<b>Duplin County</b>	
Collection of unpaid water and sewer service fees .....	270
Magistrate authorization adjustment .....	284(13.8)
No recordation of deed without certificate of no delinquent taxes .....	354(3)
Single-prime bidding method allowed .....	318(3)
<b>Durham, City of</b>	
Annexation .....	26
Chronic refuse and debris violators annual notice .....	133
Durham Firemen's Supplemental Retirement System	
Board membership .....	325(1)–(2)
Name change .....	325(3)
Housing Appeals Board to hear public health nuisance cases .....	51
Museum of Life and Science grassroots science program grant-in-aid .....	284(11.1a)
North Carolina Central University —see University of North Carolina	
North Carolina School of Science and Mathematics —see University of North Carolina	
Overgrown vegetation violators annual notice .....	77
Private university law enforcement jurisdiction .....	329(2)
Traffic control decisions by City Manager .....	85
Vehicle tax .....	329(1), (3)
<b>Durham County</b>	
Acceptance of electronic signatures and records by Register of Deeds .....	326(2.1)
Add and remove certain lands from the State Nature and Historic Preserve .....	234
Butner Advisory Council elections .....	346(1)
Durham, City of —see that heading	
Protest petition requirement .....	83
<b>DWI (Driving While Impaired)—see</b> Driving While Impaired (DWI)	

## E

<b>Eagle Springs, Town of—Samarkand Youth Academy</b>	
timber sale .....	284(15.10a)–(15.10c)
<b>Early Childhood Education and Development</b>	
<b>Initiatives—see</b> Health and Human Services, Department of (DHHS)	

## **Economic Development**

Annexation for economic development zone in Cabarrus County .....	326(2)
Bill Lee Act modifications.....	416(2)
Council of Government funds .....	284(12.2a)–(12.2e)
Economic development and training district creation .....	418
Economic development project financing constitutional change.....	403
E-NC Authority created.....	425(1)
Entrepreneurial needs and small business assistance .....	284(5.2g)
Film Industry Development Account created.....	284(12.6Aa)–(12.6Ad)
Film industry feasibility study.....	284(9.5)
Johnson and Wales University funds.....	284(12.4Aa)–(12.4Ab)
One North Carolina - Industrial Recruitment Competitive Fund .....	284(12.4a)–(12.4e)
Opportunities Industrialization Centers funds.....	284(12.12a)–(12.12c)
Qualified business investments tax credits expansion.....	414(1)–(6)
Quick take for redevelopment area by Troy .....	328(1a)–(1b)
RandD tax credit eligibility .....	349(8.1)–(8.2)
Regional Economic Development Commissions allocations.....	284(12.7a)–(12.7b), (12.8d)–(12.8e)
State ports tax credit extension.....	414(7)–(8)
Tourism promotion funds .....	284(12.3)
Wanchese Seafood Industrial Park funds .....	284(12.1a)
Wilmington Regional Film Commission funds.....	284(12.6Da)–(12.6Dc)

## **Economic Investment Committee**

Member ethics restriction .....	416(25)
Reenacted.....	416(2)

## **Eden, City of**

Annexation contracts .....	316
Charter modernization .....	82

## **Edgecombe County**

Local boards of education E-Procurement system use pilot program .....	147
Nash-Rocky Mount Board of Education boundary with Edgecombe Board of Education.....	346(4)
Princeville, Town of — <i>see</i> that heading	
Rocky Mount, City of — <i>see</i> that heading	
School system name change .....	125

## **Education**

ABCs implementation funds.....	284(7.16a)–(7.126e)
Abstinence Until Marriage Education Program .....	284(5.1f)
Academically gifted children funds.....	284(7.14)
ADM growth funds.....	284(7.27a)–(7.27b)
Alternative competency test for high school .....	275
At-risk student services/alternative schools funds.....	284(7.11)
Automotive training incentive .....	284(8.13)
Base budget reduction.....	284(7.24)

## Education—continued

### Buses

Replacement school buses.....	284(7.25a)–(7.25b)
Safety rules for activity buses study.....	284(7.25c)
S-endorsement for school bus operator.....	397(5)
Career teacher probationary period shortened.....	302
Central education office salaries.....	284(7.3a)–(7.3f)
Character and civic education program enhancement.....	284(7.40a)–(7.40d)

### Charter schools

Advisory committee funds.....	284(7.28)
Charter extension to 10 years.....	354(2)
Evaluation funds.....	284(7.28)
Gover Garden charter school TSECMMP participation.....	354(1)
TSECMMP participation.....	69

### Colleges and Universities —*see* that heading

### Community Colleges —*see* that heading

Comprehensive articulation agreement evaluation.....	284(8.12a)–(8.12h)
Conflicts of Interest Global Settlement funds for education.....	284(2.2i)
Continually low-performing schools funds.....	284(7.8)
Cooperative innovative high school programs.....	277
Driving eligibility certificates funds.....	284(7.26)
ESL (English as a Second Language) ( <i>see also</i> LEP this heading) Guidelines.....	284(7.15a)–(7.15c)
Explornet audit.....	284(7.31)
Financial literacy pilot program.....	284(7.35)
Group home education costs.....	294(1), (5)
High-calcium foods and beverages contract preference for schools.....	257
Higher Education — <i>see</i> that heading	
High-priority elementary school assistance.....	284(7.9)
High-priority school initiatives evaluation.....	284(7.10a)–(7.10c)
Instructional time flexibility due to lost time from weather.....	8
Job sharing facilitation by school employees.....	358
LEA assistance funds.....	284(7.17)
Leave sharing.....	9
LEP (Limited English Proficiency) ( <i>see also</i> ESL this heading) Guidelines.....	284(7.15a)–(7.15c)
Literacy lab funds.....	284(8.10)
Local education agency spending reduction.....	284(7.23)
No Child Left Behind Act of 2001 implementation.....	419
No expenditure of unbudgeted receipts.....	284(6.2)
Noncertified personnel salaries.....	284(7.4a)–(7.4c)
North Carolina School of Science and Mathematics — <i>see</i> University of North Carolina	
Notification of parent for unexcused absence.....	304(3)
Proceeds of civil penalties, forfeitures, and fines for free public schools.....	423
Purchase of reconstituted/recombined milk by State prohibited.....	367

**Education—continued**

Reduced class size second grade .....	284(7.12a)–(7.12b)
Regional education services alliances funds .....	284(7.34)
Reserve for teachers and principals experience step increase .....	284(7.5a)–(7.5b)
Residential schools reporting.....	284(10.41)
Sales and use tax refund for school board cooperatives.....	431(2)
School accountability pilot program terminated .....	284(7.16c)
School nurse service standards review .....	284(7.32)
School safety officer indecent contact with student.....	98
School-based administrators salary schedules.....	284(7.2a)–(7.2j)
Schools for the deaf attendance eligibility .....	253
Small school system supplemental funding.....	284(7.7a)–(7.7f)
Staff pay during military duty .....	301
Student accountability funds expenditure.....	284(7.18a)–(7.18b)
Student election assistants .....	278(1)
Student information system testing and implementation funds .....	284(7.21a)–(7.21c)
Student population growth issues study .....	284(7.29)
Supplemental funding for low-wealth counties.....	284(7.6a)–(7.6j)
Support Our Students cost limits .....	284(15.1)
TEACCH program funds .....	284(9.8)
<b>Teachers</b>	
Additional teacher positions for second grade .....	284(7.12a)–(7.12b)
Lateral, out-of-state, and initial certification of teachers.....	284(7.20c)–(7.20e)
Mentor teacher funds use .....	284(7.30a)
Mentor teacher pilot programs .....	284(7.30c)
Mentor training standards .....	284(7.30b)
Prospective teacher scholarship funds .....	284(8.8)
Recruitment initiatives funds .....	284(7.19)
Reserve for teachers and principals experience step increase.....	284(7.5a)–(7.5b)
State agency teachers' compensation .....	284(30.14C)
Teacher certification study.....	284(7.39)
Teacher recruitment and retention initiatives.....	284(7.20a)–(7.20h)
Teacher salary schedules.....	284(7.1a)–(7.1g)
Visiting international faculty funds.....	284(7.41)
Tobacco use prohibition in public school buildings.....	421
Tuition grant for State university attendees from School of Science and Math .....	284(9.4a)–(9.4b)
University of North Carolina — <i>see that heading</i>	
Veterans Day a holiday for school personnel.....	131
Vocational education funding.....	284(7.37)
<b>Education Assistance Authority</b>	
State grants for students in private institutions.....	429
Transfer from Escheat Fund for financial aid.....	284(9.2a)–(9.2d)

**Education, Boards of (Local)**

Acquisition of property  
    Extended Statewide ..... 355  
    Polk County ..... 89  
ADM growth funds ..... 284(7.27a)–(7.27b)  
Children with disabilities ..... 284(7.13)  
Competitive bids on beverage contracts ..... 284(6.15a)–(6.15b)  
Continually low-performing schools funds ..... 284(7.8)  
Cooperative innovative high school programs ..... 277  
Financial literacy pilot program ..... 284(7.35)  
Group home education costs ..... 294(1), (5)  
High-calcium foods and beverages contract  
    preference ..... 257  
High-priority elementary school assistance ..... 284(7.9)  
Identify policies to encourage students to stay in school ..... 277(3)  
Instructional time flexibility due to lost time from  
    weather ..... 8  
Job sharing facilitation by school employees ..... 358  
LEA assistance funds ..... 284(7.17)  
Limited English proficiency guidelines ..... 284(7.15a)–(7.15c)  
Local education agency spending reduction ..... 284(7.23)  
Medicaid services for students with disabilities  
    collaboration ..... 284(10.29A)  
Mentor teacher  
    Funds use ..... 284(7.30a)  
    Pilot programs ..... 284(7.30c)  
Nash-Rocky Mount Board of Education boundary with  
    Edgecombe Board of Education ..... 346(4)  
Noncertified personnel salaries ..... 284(7.4a)–(7.4c)  
Property disposal at private sale by Bladen County ..... 122  
Purchasing flexibility and E-Procurement system use ..... 147  
Regional education services alliances funds ..... 284(7.34)  
Sales and use tax refund for school board cooperatives ..... 431(2)  
School construction/repair contract flexibility for  
    Winston-Salem/Forsyth ..... 269  
School principal contract term ..... 291  
School system name change for Edgecombe County ..... 125  
Small school system supplemental funding ..... 284(7.7a)–(7.7f)  
Student accountability funds expenditure ..... 284(7.18a)–(7.18b)  
Supplemental funding for low-wealth counties ..... 284(7.6a)–(7.6j)  
Tobacco use prohibition in public school buildings ..... 421  
Vocational education funding ..... 284(7.37)  
Volunteer files are private ..... 353

**Education Oversight Committee, Joint Legislative**

Comprehensive articulation agreement evaluation ..... 284(8.12a)–(8.12h)  
Student population growth issues study ..... 284(7.29)  
Tuition waivers study ..... 230



## Education, State Board of

Alternative competency test for high school .....	275
Appointments and membership .....	306
Appropriations	
ABCs implementation .....	284(7.16a)–(7.126e)
Academically gifted children .....	284(7.14)
ADM growth .....	284(7.27a)–(7.27b)
At-risk student services/alternative schools .....	284(7.11)
Charter school advisory committee and evaluation .....	284(7.28)
Children with disabilities .....	284(7.13)
Driving eligibility certificates .....	284(7.26)
Litigation reserve funds .....	284(7.22)
Local education agency spending reduction .....	284(7.23)
Maternal and child health block grant for abstinence education .....	284(5.1f)
Replacement school buses .....	284(7.25a)
Student information system testing and implementation funds .....	284(7.21a)–(7.21c)
Teacher recruitment and retention initiatives .....	284(7.20a)
Teacher recruitment initiatives .....	284(7.19)
Character and civic education program enhancement .....	284(7.40a)–(7.40d)
Charter school extension to 10 years .....	354(2)
Continually low-performing schools funds .....	284(7.8)
Cooperative innovative high school programs .....	277
Driver education privatization study .....	284(29.7)
Encourage early entry to higher education .....	251
Financial literacy pilot program .....	284(7.35)
High school students in college level courses study .....	284(7.36)
High-priority school initiatives evaluation .....	284(7.10a)–(7.10c)
Identify policies to encourage students to stay in school .....	277(3)
Investigative services use .....	408
Job sharing facilitation by school employees .....	358
Lateral, out-of-state, and initial certification of teachers .....	284(7.20c)–(7.20e)
Leave sharing .....	9
Limited English proficiency guidelines .....	284(7.15a)–(7.15c)
Mentor training standards .....	284(7.30b)
No Child Left Behind Act of 2001 implementation .....	419
Public school staff pay during military duty .....	301
Reports — <i>see</i> that heading	
Safety rules for activity buses study .....	284(7.25c)
School nurse service standards review .....	284(7.32)
Shared leave for State employees .....	284(30.1Aa)–(30.14Ac)
Small school system supplemental funding .....	284(7.7a)–(7.7f)
Student accountability funds expenditure .....	284(7.18a)–(7.18b)
Supplemental funding for low-wealth counties .....	284(7.6a)–(7.6j)
Teacher certification study .....	284(7.39)
Teacher recruitment and retention initiatives .....	284(7.20a)–(7.20h)
Teaching certificate immediate revocation for certain crimes .....	408

**Education, State Board of—continued**

Visiting international faculty funds .....284(7.41)  
Vocational education funding.....284(7.37)

**Elections** (*see also* Voter Registration)

Absentee and one-stop votes reporting..... 183  
Absentee voting application .....278(11)  
Ballot review of candidates names ..... 209  
Butner Advisory Council.....346(1)  
Campaign Finance —*see* that heading  
Campaigning space near voting place ..... 365  
Canvassing of primaries .....278(10e), (10g), (10h)  
Canvassing of votes .....278(10a)  
Cashiers incorporation..... 75(7)–(8)  
Certification of results .....278(10k)  
Complaint procedure .....226(17)  
Compliance with Help America Vote Act..... 226  
Death of candidate .....278(4)  
Duplicate abstract disposition in municipal elections .....278(10i)  
Economic development project financing constitutional  
change..... 403  
Election district boundaries in Enfield ..... 163  
Filling vacancy on party ticket ..... 142  
Help America Vote Act matching funds ..... 284(25.1a)–(25.1b)  
ID required for first time voter .....226(16)  
Mandatory recounts ..... 278(10b)–(10c)  
Nomination of presidential candidates ..... 278(9a)–(9b)  
Noncertified candidate reporting .....278(2)  
Ordering new elections ..... 278(8a)–(8b)  
PAC reporting requirements..... 274  
Persons may not sign name of another to petitions .....278(7)  
Precinct officials/assistants compensation.....278(3)  
Proceeds of civil penalties, forfeitures, and fines for free  
public schools ..... 423  
Provisional voting.....226(8), (14)–(15), (15)  
Recall election not a referendum .....278(5)  
Second primary request .....278(10d), (10f)  
Statewide voter registration system.....226(2)–(7b), (9)–(10)  
Student election assistants .....278(1)  
Sunset Harbor incorporation..... 317  
Technical corrections and conforming changes ..... 278  
Township ABC elections ..... 218  
Uniformed and overseas voting ..... 226(18)–(20)  
Voter education and information.....226(8)  
Voting equipment standards ..... 226(11)–(13)  
Wadesboro municipal elections..... 190(2)

**Elections, Boards of (Local)**

Absentee voting application .....278(11)  
Ballot review of candidates names ..... 209  
Campaigning space near voting place ..... 365

**Elections, Boards of (Local)—continued**

Canvassing	
Primaries.....	278(10e), (10g), (10h)
Votes.....	278(10a)
Certification of results .....	278(10k)
Duplicate abstract disposition in municipal elections .....	278(10i)
Mandatory recounts .....	278(10b)–(10c)
Precinct officials/assistants compensation.....	278(3)
Statewide voter registration system.....	226(6)
Student election assistants .....	278(1)
Voter education and information.....	226(8)

**Elections, State Board of**

Appropriations	
Current operations.....	284(2.1)
Help America Vote Act matching funds.....	284(25.1a)–(25.1b)
Ballot review of candidates names .....	209
Certification of results .....	278(10k)
Complaint procedure .....	226(17)
Election Fund created .....	12
Help America Vote Act matching funds .....	284(25.1a)–(25.1b)
Mandatory recounts .....	278(10b)–(10c)
Nomination of presidential candidates .....	278(9a)–(9b)
Noncertified candidate reporting .....	278(2)
Ordering new elections .....	278(8a)–(8b)
PAC reporting requirements.....	274
Second primary request .....	278(10d), (10f)
Statewide voter registration system.....	226(2)–(7b), (9)–(10)
Voting equipment standards .....	226(11)–(13)

**Electronic Commerce** (*see also* Electronic Government)

Electronic signatures use and validity .....	233(1)–(2)
--	------------

**Electronic Government** (*see also* Electronic Commerce)

Acceptance of electronic signatures and records by Register	
of Deeds in certain counties .....	326(2.1)
Corporate report submissions in electronic format.....	233(3)
Electronic signatures use and validity .....	233(1)–(2)
Internet-based property tax certification procedure alternative.....	399
Judgment dockets changes.....	59
Local boards of education E-Procurement system use.....	147
North Carolina Manual distribution and sale, and study.....	284(24.2)
Notice in lieu of publication for Cabarrus County .....	81
Public hearings notification for certain cities .....	161
Statewide voter registration system.....	226(2)–(7b), (9)–(10)

**Electronic Signatures**—*see* Electronic Commerce;

Electronic Government

**Elementary Education**—*see* Education

**Elizabeth City, City of**

Elizabeth City State University — <i>see</i>	
University of North Carolina	
Opportunities Industrialization Center funds .....	284(12.12a)–(12.12c)

<b>Emergency Management</b>	
Drought Management Advisory Council created .....	387(2)
Drought recovery funds .....	284(5.2f)
Health coverage guarantee for employees subject to required smallpox vaccine.....	169
Princeville flood control study .....	284(31.2a)
State agency business continuity planning .....	153(2)
Terrorist response information not subject to open records/open meetings .....	180
Vaccination for first responders.....	227
<b>Emergency Medical Services</b>	
Anaphylaxis treatment training .....	392(2e)
Arson resulting in injury to firefighter or emergency medical technician .....	392(3a)–(3b)
Credentialing.....	392(2b)
Definitions .....	392(2a)
EMS systems, EMS educational institutions, and specialty care transport program standards .....	392(2d)
Statewide trauma system peer review committees .....	392(2c)
<b>Emergency Medical Services Act</b> .....	392(2a)–(2i)
<b>Emergency Medical Services Advisory Board</b>	
Appointments and membership .....	392(2g)
Trauma system records .....	392(2g)
<b>Emergency Medical Services Disciplinary Committee—</b>	
appointments and membership .....	392(2i)
<b>Emergency Services</b>	
Arson resulting in injury to firefighter or emergency medical technician.....	392(3a)–(3b)
Avery County Fire Commission.....	272
Child Alert Notification (AMBER Alert) system.....	191
Criminal records checks for fire departments.....	182
Death benefit increase for certain emergency workers .....	284(30.18Aa)
Death benefits for emergency workers for death due to heart attack.....	284(30.18Ab)
Durham Firemen's Supplemental Retirement System	
Board membership .....	325(1)–(2)
Name change .....	325(3)
Fayetteville firemen's supplemental retirement benefit fund repealed.....	34
Firemen's and Rescue Squad Worker's Pension Fund eligible firemen defined.....	362
Firemen's relief fund and supplementary pension fund changes for Lumberton.....	324
Honor retiring or deceased firefighters with presentation of fire helmet .....	145
Job protection for volunteer emergency workers .....	103
Joint fire and rescue protection districts repealed in Forsyth County .....	129
Paramedics license plate .....	68

**Emergency Services—continued**

Pension increase for Firemen's and Rescue Squad Worker's  
Pension Fund .....284(30.19)  
Police and fire protection district jurisdiction for Butner.....346(3)  
Pyrotechnic display regulation ..... 298  
Vaccination for first responders..... 227  
Winston-Salem firemen's retirement fund..... 35

**Eminent Domain**

Acquisition of property by Polk County Board of Education ..... 89  
Authority granted to certain cities for beach erosion, flood  
control, hurricane protection, and beach access ..... 282  
Condemnation authority for Apex.....88(1)  
Quick take for redevelopment area by Troy..... 328(1a)–(1b)

**Employment**

Child support requirements.....288(3.1)  
Criminal records checks for fire departments..... 182  
Dallas delegation of authority to remove/suspend employees ..... 22  
Economic development and training district creation ..... 418  
Employee status of truck/tractor trailer driver for workers'  
compensation..... 235  
Health care facilities to verify licensure of nurses .....146(6)  
Job protection for volunteer emergency workers ..... 103  
Job training, education, and placement evaluation funds.....284(12.6b)  
Private personnel service  
Application time limit .....308(9)  
Legal notice cost.....308(9)  
Sales representative commissions..... 331  
Service of notice .....308(1)–(7)  
State education and training program tracking system funds.....284(12.6b)  
Training wage statute repealed .....308(8)  
Unemployment benefits due to industrial disaster ..... 1  
Unemployment insurance —see Insurance  
Work central career advancement center block grant funds.....284(5.1a)  
Workers' compensation —see Insurance

**Employment Security Commission**

Apprenticeship Program funds .....284(12.6b)  
Chairman's salary.....284(30.3)  
Entrepreneurial skills training program funds .....284(12.6b)  
Hosiery Technology Center funds.....284(12.6b)  
Job training, education, and placement evaluation funds.....284(12.6b)  
State education and training program tracking system funds.....284(12.6b)  
Unemployment benefits due to industrial disaster ..... 1  
Worker Training Trust Fund..... 284(12.6a)–(12.6d)

**E-NC Authority—created.....425(1)**

**Energy and Energy Policy—see Conservation; Utilities**

**Energy Policy Council**

Low-income residential energy program.....284(18.3)  
Petroleum overcharge funds allocation ..... 284(18.4a)–(18.4b)

**Enfield, Town of—election district boundaries..... 163**

<b>Engineers and Surveyors</b>	
Erection of pre-engineered structures by local/State government.....	305
Reinstatement of license .....	347(3)
Surveyor license plate.....	424(2)
<b>Engineers and Surveyors, State Board of Examiners for</b>	
May acquire real property.....	347(1)
Civil penalty increase .....	347(2)
Reinstatement of license .....	347(3)
<b>English as a Second Language (ESL)—see Education</b>	
<b>Entertainment Industry</b>	
Amusement device safety enhancement.....	170
Artistic, creative, and athletic contracts for minors.....	207
Film industry feasibility study.....	284(9.5)
Sexually explicit conduct on licensed ABC premises.....	382
Unauthorized sound and video recordings .....	159
<b>Environment</b>	
Add and remove certain lands from the State Nature and Historic Preserve .....	234
Aquatic weed control.....	284(31.2a)
Bogue Banks shore protection study .....	284(31.2a)
Carolina Lily official wildflower.....	426
Clean Smokestack Act public utility sanitary landfill exemption .....	37
Coastal recreation waters monitoring rules .....	149
Construction prior to or expansion of existing air quality permit .....	428
Currituck Sound water management study.....	284(31.2a)
Environmental permit requirement on transportation projects.....	284(29.6)
Environmental restoration projects.....	284(31.2a)
Evaluate water quality and endangered species protection in Swift Creek.....	433(3)
NC Coastal Federation license plate.....	68
Permanent coastal erosion control structures prohibited.....	427(3)
Princeville flood control study .....	284(31.2a)
Riprap sills for wetland enhancement and shoreline protection permit rules.....	427(1)–(2)
Scrap tire, white goods, dry-cleaning solvent tax cannot be applied to nontaxable sales.....	416(19a)–(19c)
Surf City/North Topsail beach protection study.....	284(31.2a)
Technical corrections and conforming changes .....	340
<b>Environment and Natural Resources, Department of (DENR)</b>	
Appropriations	
Aquatic weed control .....	284(31.2a)
Beaufort Harbor maintenance dredging.....	284(31.2a)
Beaver damage control program .....	284(11.2)
Bogue Banks shore protection study.....	284(31.2a)
Carolina Beach renourishment.....	284(31.2a)
Clean Water Management Trust Fund .....	284(2.1)
Current operations.....	284(2.1)
Currituck Sound water management study .....	284(31.2a)
Deep Creek watershed management .....	284(31.2a)

**Environment and Natural Resources, Department of (DENR)—continued**

Appropriations—continued

Environmental restoration projects .....	284(31.2a)
Express review pilot program .....	284(11.4Ac)
Farmland preservation projects .....	284(11.8a)–(11.8b)
Grassroots science program .....	284(11.1a)–(11.1c)
John H. Kerr Reservoir operations evaluation .....	284(31.2a)
Kure Beach renourishment.....	284(31.2a)
Leaking petroleum underground storage tank funds.....	284(11.4a)–(11.4f)
Little Sugar Creek restoration .....	284(31.2a)
Manteo (Shallowbag) Bay channel maintenance.....	284(31.2a)
Morehead City harbor maintenance and nourishment .....	284(31.2a)
Neuse River Basin feasibility study .....	284(31.2a)
Ocean Isle Beach renourishment.....	284(31.2a)
Petroleum underground storage tanks funds use.....	352(3), (5)
Planning assistance for communities .....	284(31.2a)
Princeville flood control study .....	284(31.2a)
Projected feasibility studies.....	284(31.2a)
Safe Drinking Water Act matching funds.....	284(11.10)
State local water projects.....	284(31.2a)
Surf City/North Topsail beach protection study .....	284(31.2a)
Swan Quarter flood control dykes.....	284(31.2a)
Warren County landfill PCB cleanup .....	284(11.3a)–(11.3b)
Water resource development projects .....	284(31.1)
West Onslow Beach .....	284(31.2a)
Wilmington harbor deepening and maintenance.....	284(31.2a)
Bikeways and trails funding authority clarification .....	256
Carolina Beach marina and fee.....	284(35.1Aa)–(35.1Ac)
Cost share funds for limited resource/new farmers .....	284(11.6)
Drought Management Advisory Council — <i>see that heading</i>	
Environmental permit requirement on transportation projects .....	284(29.6)
Express review pilot program.....	284(11.4Aa)–(11.4Ae)
Forests, parks, and recreation area fees .....	284(35.1a)–(35.1d)
Haw River State Park added to parks system .....	108
Hazardous waste fee .....	284(35.2a)–(35.2c)
Hog lagoon moratorium exemption.....	340(7)
Lead poisoning prevention .....	150
Mayo River State Park added to parks system .....	106
Medical liability coverage for health care employees.....	284(10.7a)–(10.7c)
Nondischarge animal waste permits Expiration date extensions .....	28(1)
Study.....	28(2)
Petroleum underground storage tanks cost-effective cleanup requirement .....	352(1)–(2), (4)
Reports — <i>see that heading</i>	
Secretary's salary .....	284(30.2)
Technical corrections and conforming changes .....	340(1.9)

**Environment and Natural Resources, Department of**

**(DENR)—continued**

- Water resource development projects..... 284(31.2a)–(31.2d)
- Western Core Sound shellfish cultivation leases..... 64

**Environmental Management Commission**

- Construction prior to or expansion of existing air quality permit ..... 428
- Hog lagoon moratorium exemption.....340(7)
- Petroleum underground storage tank
  - Mixed contaminant cleanup .....352(9)
  - Secondary containment requirement rules .....352(8)
  - Testing requirements .....352(11)
- Swift Creek/Sandy Creek reclassification ..... 433(1)–(2), (4)
- Swine farm moratorium extended ..... 266
- Technical corrections and conforming changes ..... 340(1.8a)–(1.8b)

**Environmental Review Commission**

- Appointments and membership .....340(4)
- Evaluate water quality and endangered species protection in
  - Swift Creek.....433(3)
- Leaking petroleum underground storage tank program study..... 352(12a)–(12b)

**Equitable Distribution—see Divorce**

**Erosion**

- Authority granted to certain cities for beach erosion, flood control, hurricane protection, and beach access ..... 282
- Permanent coastal erosion control structures prohibited.....427(3)
- Riprap sills for wetland enhancement and shoreline protection permit rules.....427(1)–(2)

**ESL (English as a Second Language)—see Education**

**Estates**

- Child support arrearages .....288(1.1)
- Equitable distribution claim surviving death of spouse ..... 168
- Phase II tobacco settlement payments ..... 295
- Safe deposit box access by decedent's deputy ..... 255
- Surviving spouse elective share clarification ..... 296
- Uniform Principal and Income Act ..... 232

**Evidence—see Courts**

**Executive Budget Act..... 284(28.2a)–(28.2b)**

**Executive Budget Act Revisions, Joint Committee on—**

- created ..... 284(6.12a)–(6.12c)

**Explosives**

- Penalty for damaging a public building with an explosive device .....392(3c)
- Pyrotechnic display regulation ..... 298

**F**

**Family Law Arbitration Act ..... 61**

**Family Planning**

- Coverage under Medicaid.....284(10.19u)
- Involuntary sterilization laws repealed..... 13
- Limitations on State funds for abortions .....284(10.54)



**Farm and Rural Families, Coalition of**

Reports —*see* that heading

**Farmers Markets—*see* Agriculture**

**Fayetteville, City of**

Fascinate-U Children's Museum grassroots science program  
grant-in-aid .....284(11.1b)  
Firemen's supplemental retirement benefit fund repealed..... 34  
Retirement and employee benefit fund investments.....318(4)

**Fees**

Abortion services certification fees ..... 284(34.7a)–(34.7b)  
Adult care home fees ..... 284(34.1a)–(34.1b)  
Ambulatory surgical facility licensure fees ..... 284(34.5a)–(34.5b)  
Animal disease diagnostic testing fees increases reflected  
in budget ..... 284(35.3a)  
Appointment fee for criminal defendants .....284(13.11)  
Cardiac rehabilitation services licensure fee ..... 284(34.6a)–(34.6b)  
Cervid (deer) regulation..... 344  
Child care center licensure fees ..... 284(34.12a)–(34.12b)  
Computer system replacement funds for Industrial  
Commission ..... 284(12.6Ca)–(12.6Ce)  
Concealed handgun fee reduction for retired law  
enforcement ..... 379  
Construction prior to or expansion of existing air quality  
permit..... 428  
Continuing care retirement communities licensure fees..... 284(34.9a)–(34.9b)  
Court fees redirection ..... 284(30.19Ba)–(30.19Bb)  
Cremation law improvements and strengthening .....420(2)  
Criminal record checks fee adjustment ..... 284(14.5b)  
Dispute resolution fee clarification..... 284(13.13)  
Distribution of license plate fees ..... 424(4)–(6)  
Drug detection dog training controlled substances  
registration requirements ..... 398  
Excess weight/oversize fees funds use .....284(29.5)  
Express review pilot program..... 284(11.4Aa)–(11.4Ae)  
Family child care home licensing ..... 284(10.39A)  
Fee increase for dentistry ..... 348(1)–(2)  
Forests, parks, and recreation area fees ..... 284(35.1a)–(35.1d)  
Hazardous waste fee ..... 284(35.2a)–(35.2c)  
Health care facility construction projects review fee ..... 284(34.11a)–(34.11b)  
Historic structure rehabilitation certification and fees ..... 284(35A.1)–(35A.3)  
Home care agency licensure fees..... 284(34.4a)–(34.4b)  
Homeowners recovery fund permit fee increase ..... 372  
Hospital licensure fees ..... 284(34.2a)–(34.2b)  
Locksmith apprentice fees ..... 350(7)  
Mediation and arbitration fees ..... 284(36A.1)  
Mental health, developmentally disabled, and substance  
abuse facilities licensure fees ..... 284(34.8a)–(34.8b)  
Museum admission fees..... 284(35A.4)

**Fees—continued**

NC Coastal Federation license plate.....	68
Nursery dealer certification fees.....	284(35.3b)
Nurses license plate.....	11
Nursing home licensure fees.....	284(34.3a)–(34.3b)
Offender fees collection.....	284(16.15)
Out-of-state real estate brokers and salesperson licensing.....	361(3)
Out-of-state wine shipments.....	402
Paramedics license plate.....	68
Pesticide fees.....	284(35.4a)–(35.4f)
Private DWI offender services facility.....	396(1), (3)–(4)
Public utilities regulatory fee.....	284(32.1a)–(32.1c)
Regulation of athlete agents.....	375
Reinstatement of retired nurse.....	29
Respiratory care licensure.....	384(6)
Riprap sills for wetland enhancement and shoreline protection permit.....	427(1)–(2)
Secretary of State fees.....	284(35B.1a)–(35B.3b)
Secretary of State filing fees nonrefundable.....	349(7)
Special license plate fee increases.....	424(3)
Speech/language pathologists and audiologists.....	222
Superior Court fees.....	284(36A.2)–(36A.3)
Temporary psychology license fee.....	368(4)
<b>Ferries</b>	
Currituck-Corolla ferry service funds.....	284(29.20)
Ferry employee positions from tolls.....	284(29.15)
<b>Fertilizers</b> —see Agriculture	
<b>Festivals</b> —see Arts; Cultural Resources	
<b>Film Industry</b> —see Entertainment Industry	
Film Industry Development Account created.....	284(12.6Aa)–(12.6Ad)
Wilmington Regional Film Commission funds.....	284(12.6Da)–(12.6Dc)
<b>Financial Aid</b> —see Higher Education; Tuition	
<b>Financial Institutions</b>	
Child support requirements.....	288(4)
Usury exemption expansion.....	401
Worthless check program available statewide.....	377
<b>Financial Services</b>	
Accountings in testamentary trusts.....	261
Irrevocable trusts clarification.....	93
Safe deposit box access by decedent's deputy.....	255
Settlor power to relieve revocable trust trustee of duties, restrictions, and liabilities.....	225
Uniform Principal and Income Act.....	232
Usury exemption expansion.....	401
<b>Fines and Penalties</b>	
Amusement device safety enhancement.....	170
Child Care Facilities Act violations enhanced penalties.....	192
Engineers and surveyors violation penalties increase.....	347(2)
Food, drug, and cosmetic act violations.....	389
<b>Fines and Penalties</b> —continued	

Leaving the scene of an accident penalties.....	394
Massage and bodywork therapy disciplinary costs and penalties.....	348(3)–(4)
Mutual insurance companies governing directors.....	212(14)–(16)
Nonpayment of taxes penalty may be waived.....	416(10)
Proceeds of civil penalties, forfeitures, and fines for free public schools.....	423
Residential tenant late fee.....	370
Respiratory care licensure violations.....	384(8)
Securities fraud prevention.....	413(1)–(27)
SUTA dumping increased penalties.....	67(2)
Traffic control camera pilot program for Charlotte.....	280(1), (4)
Waived deadlines, fees, and penalties for deployed military personnel.....	300
<b>Firefighting</b> — <i>see</i> Emergency Services	
<b>Firemen's and Rescue Squad Worker's Pension Fund</b> — <i>see</i> Retirement	
<b>Fireworks</b> — <i>see</i> Explosives	
<b>First In America Innovative Education Initiatives Act</b> .....	277
<b>Fish</b> — <i>see</i> Wildlife	
<b>Fisheries</b> ( <i>see also</i> Aquaculture)	
Fisheries Director proclamation authority.....	154
<b>Food, Drug, and Cosmetic Act</b> .....	389
<b>Food Services</b>	
Johnson and Wales University funds.....	284(12.4Aa)–(12.4Ab)
Restaurant definition for ABC permits.....	135
Sexually explicit conduct on licensed ABC premises.....	382
Sprinklers in bars and clubs in Carrboro.....	237(1)
Technical corrections and conforming changes.....	340(3)
<b>Foods and Beverages</b> ( <i>see also</i> Nutrition)	
Civil penalty for violation of food, drug, and cosmetic act.....	389
Competitive bids on beverage contracts.....	284(6.15a)–(6.15b)
Second Harvest North Carolina food bank funds.....	284(10.55a)–(10.55b)
<b>Forest Products</b> —Samarkand Youth Academy timber sale.....	284(15.10a)–(15.10c)
<b>Forsyth County</b>	
Joint fire and rescue protection districts repealed.....	129
Kernersville, Town of— <i>see</i> that heading	
Mentor teacher pilot program.....	284(7.30c)
School construction/repair contract flexibility.....	269
Winston-Salem, City of— <i>see</i> that heading	
<b>Foster Care</b>	
Child welfare workers block grant funds.....	284(5.1n)
Criminal records checks licensure.....	304(4)
Foster care home applicants registry.....	304(5)
Foster care/adoption assistance payments.....	284(10.46a)–(10.46d)
Special Needs Adoption Incentive Fund created.....	284(10.45)
<b>Franklin, Town of</b> —demolition of unsafe residential buildings in community development areas.....	42
<b>Fraud</b> — <i>see</i> Crimes	

**Fuels**

Leaking petroleum underground storage tank funds .....	284(11.4a)–(11.4f)
Motor fuel tax change .....	349(10.1)–(10.16)
Oil overcharge funds for weatherization assistance program.....	284(10.1a)–(10.1b)

**Funds and Accounts**

Clean Water Management Trust Fund	
Appropriations.....	284(2.1)
Farmland preservation projects .....	284(11.8a)–(11.8b)
Reserve for Special Funds transfer .....	284(6.23a)–(6.23b)
Commercial and Noncommercial Leaking Underground Storage Tank Cleanup Funds .....	284(11.4a)–(11.4f)
Community Colleges Instructional Trust Fund created.....	284(8.14a)–(8.14b)
Disaster Relief Fund	
Transfers for General Fund appropriations.....	284(2.2d)
Distinguished Professors Endowment Trust Fund	
Challenge grants.....	293
Distribution of license plate fees .....	424(4)–(6)
Election Fund	
Created .....	12
Escheats Fund	
Unclaimed property program .....	284(28.5)
Veterans scholarship funding from Escheat Fund .....	284(18.5a)–(18.5c)
Express Review Fund	
Created .....	284(11.4Ad)
Fayetteville firemen's supplemental retirement benefit fund repealed .....	34
Film Industry Development Account	
Created .....	284(12.6Aa)–(12.6Ad)
Funds do not revert.....	284(12.6E)
Wilmington Regional Film Commission funds .....	284(12.6Da)–(12.6Dc)
Firemen's and Rescue Squad Worker's Pension Fund — <i>see</i> Retirement	
Health and Wellness Trust Fund	
Expenditure of remaining balance of funds .....	284(2.2g)
Transfer of new settlement funds for General Fund appropriations.....	284(2.2k)
Transfers for General Fund appropriations.....	284(2.2c)
Highway Fund — <i>see</i> Transportation, Department of	
Highway Trust Fund — <i>see</i> Transportation, Department of	
Homeowners Recovery Fund	
Permit fee increase .....	372
Industrial Development Fund	
Reduction .....	284(12.5a)–(12.5b)
Insurance Regulatory Fund	
Insurance operations funding sunset extended.....	284(22.2)
Medicaid Trust Fund replenishment.....	283(1)

**Funds and Accounts—continued**

Mental Health, Developmental Disabilities, and Substance Abuse Services Trust Fund	
Appropriations.....	284(2.1)
Natural Heritage Trust Fund	
Reserve for Special Funds transfer .....	284(6.23a)–(6.23b)
One North Carolina - Industrial Recruitment Competitive Fund	
Funds .....	284(12.4a)–(12.4e)
Johnson and Wales University funds .....	284(12.4Aa)–(12.4Ab)
Parental Savings Trust Fund	
Payroll deduction for State employees.....	224
Parks and Recreation Trust Fund	
Reserve for Special Funds transfer .....	284(6.23a)–(6.23b)
Pension funds — <i>see</i> Retirement	
Private Child Caring Agencies Fund	
Placement of nonfederal IV-E children.....	284(5.1t)
Public School Building Capital Fund transferred from Budget and Management Office to DPI.....	284(7.33a)–(7.33b)
Special Children Adoption Fund	
Funds .....	284(10.47a)–(10.47b)
Guidelines.....	284(5.1s)
Special funds transfers.....	283(2)
Special Needs Adoption Incentive Fund	
Created .....	284(10.45)
Special Reserve for Oil Overcharge Funds	
Petroleum overcharge funds allocation.....	284(18.4a)–(18.4b)
Technical corrections and conforming changes .....	221
Tobacco Trust Fund	
Transfers for General Fund appropriations.....	284(2.2b)
Transfer of new settlement funds for General Fund appropriations.....	284(2.2k)
Winston-Salem firemen's retirement fund.....	35
Wireless 911 Fund	
Reallocation.....	416(29a)–(29b)
Transfers for General Fund appropriations.....	284(2.2h)
Worker Training Trust Fund	
Funds appropriation.....	284(12.6a)–(12.6d)
<b>Funeral Service, North Carolina Board of</b>	
Cremation law improvements and strengthening .....	420(2)
Meeting requirements .....	420(4)
Name change to North Carolina Board of Mortuary Science .....	420(1)
Right to acquire property.....	420(5b)
Technical corrections and conforming changes .....	420
<b>Funeral Services—cremation law improvements and strengthening.....</b>	<b>420</b>

**G**

**Garner, Town of**—acquisition of property for future utilities lines..... 74

**Gaston County**

Aquatic weed control.....284(31.2a)

Dallas, Town of —*see* that heading

Gastonia, City of —*see* that heading

Ranlo, Town of —*see* that heading

**Gastonia, City of**

Schiele Museum of Natural History grassroots science  
program grant-in-aid.....284(11.1a)

Voluntary satellite annexation ..... 30

**Gates County**—Meherrin Tribe recognition .....54(2)

**General Assembly**

Advice and recommendations from Board of Science and  
Technology —*see* that heading

Appropriations .....284(2.1)

Atlantic State Marine Fisheries Compact and Commission  
legislative member appointment ..... 92

Buildings and grounds defined .....284(19B.2)

Employees' salaries.....284(30.10)

Executive Budget Act Revisions, Joint Committee on —*see*  
that heading

General Assembly cannot contract away its taxing power.....416(12)

Governmental Operations, Joint Legislative Commission on —*see*  
that heading

Legislative committees and commissions —*see*  
particular committee

Legislative food service food donation .....284(19B.1)

Meeting notices.....374(1)

Principal Clerks' salaries.....284(30.8)

Sergeant-at-Arms and reading clerks' salaries.....284(30.9)

Western Justice Academy named for Representative  
Larry T. Justus ..... 289

**General Contractors, North Carolina Licensing Board for**

Complaining party confidentiality .....97(1)

Injunctive relief clarification .....97(2)

**General Statutes**

Technical corrections and conforming changes —*see*  
particular subject or agency

**General Statutes Commission**—puppy mill regulation study..... 208(2a)–(2b)

**Geographic Information Coordinating Council**—  
offensive place-names..... 211

**Global TransPark Development Commission**

Allocations .....284(12.7a)–(12.7b), (12.8d)–(12.8e)

Appointments and membership ..... 94

Board structure study .....284(12.8f)

Reports —*see* that heading

<b>Goldsboro, City of</b> —demolition of unsafe residential buildings in community development areas .....	23
<b>Governmental Operations, Joint Legislative Commission on</b>	
Changes to block grant allocations subject to review.....	284(5.1d)
Sale of State surplus property .....	283(3)
Special funds transfers.....	283(2)
<b>Governor, Office of the</b>	
Appointments — <i>see</i> that heading	
Appropriations .....	284(2.1)
Budget and Management, Office of State — <i>see</i> that heading	
Governor's salary .....	284(30.1a)
HIPAA implementation .....	284(6.7a)–(6.7c)
Housing Finance Agency — <i>see</i> that heading	
<b>Granite Quarry, Town of</b> —charter consolidation.....	203
<b>Grants</b>	
Block Grants — <i>see</i> Appropriations	
Challenge grants from Distinguished Professors Endowment Trust Fund .....	293
Community revitalization grant distribution program.....	284(5.2h)
Drug law enforcement grants review.....	284(17.4a)–(17.4b)
Juvenile crime prevention council grants .....	284(15.2a)–(15.2b)
State grants for students in private institutions.....	429
<b>Granville County</b>	
Butner — <i>see</i> that heading	
Butner community land reservation .....	284(10.8)
John H. Kerr Reservoir operations evaluation.....	284(31.2a)
Oxford, Town of — <i>see</i> that heading	
<b>Greene County</b> —new prisons lease-purchase.....	284(47.2)
<b>Greensboro, City of</b>	
Amend territorial boundary with Piedmont Triad International Airport Administration.....	202
Board of Alcohol Control membership increase .....	33
City manager contract authority .....	134
Expenditure of funds on roads outside corporate limits .....	132
Land transfers for millennium campuses at UNC-Greensboro and NC A & T .....	284(6.20)
Natural Science Center of Greensboro grassroots science program grant-in-aid.....	284(11.1a)
North Carolina Agricultural and Technical University — <i>see</i> University of North Carolina	
Order to repair residential property not meeting code.....	76
UNC-Greensboro — <i>see</i> University of North Carolina	
<b>Group Homes</b> ( <i>see also</i> Foster Care)	
Education costs .....	294(1), (5)
Licensing process.....	294(2)–(4)
<b>Guardianship</b> — <i>see</i> Child Custody; Courts	

**Guilford County**

Haw River State Park added to parks system ..... 108  
High Point, City of —*see* that heading  
Local boards of education E-Procurement system use pilot program ..... 147

**H**

**Halifax County**

Enfield, Town of —*see* that heading  
Halifax Airport Authority renamed ..... 318(1)–(2)  
Roanoke Rapids, City of —*see* that heading

**Harnett County**—acceptance of electronic signatures and

records by Register of Deeds ..... 326(2.1)

**Haywood County**

Folkmoot USA official State international festival ..... 315  
Waynesville, Town of —*see* that heading

**Hazardous Substances**

Hazardous waste fee ..... 284(35.2a)–(35.2c)  
Lead poisoning prevention ..... 150  
Pesticide fees ..... 284(35.4a)–(35.4f)  
Technical corrections and conforming changes ..... 150

**Hazardous Waste**—*see* Hazardous Substances; Waste Management

**Health and Human Services, Department of (DHHS)**

Anaphylaxis treatment training ..... 392(2e)

Appropriations

Block grant funds ..... 284(5.1a)  
Child care subsidies ..... 284(5.1a), (5.1h), (5.1q)  
Child Medical Evaluation Program block grant  
funds ..... 284(5.1a)  
Community services block grant ..... 284(5.1a)  
Comprehensive Treatment Services Program block  
grant funds ..... 284(5.1a)  
Current operations ..... 284(2.1)  
Decreases in federal fund availability ..... 284(5.1b)

Division of Aging

Block grant funds ..... 284(5.1a)  
Current operations ..... 284(2.1)  
Senior center outreach ..... 284(10.42a)–(10.42c)

Division of Child Development

Current operations ..... 284(2.1)  
More-At-Four program ..... 284(10.40a)

Division of Educational Services ..... 284(2.1)

Division of Facility Services

Block grant funds ..... 284(5.1a)  
Current operations ..... 284(2.1)  
Mental health licensure block grant funds ..... 284(5.1a)



**Health and Human Services, Department of (DHHS)—continued**

Division of Medical Assistance	
Current operations.....	284(2.1)
Disproportionate share receipt disposition .....	284(10.21a)–(10.21b)
Federal Medicaid funds increase .....	284(10.24a)–(10.24b)
Medicaid expenditures.....	284(10.19a)–(10.19bb)
Medicaid reserve fund transfer .....	284(10.20)
Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	
Block grant funds.....	284(5.1a)
Comprehensive treatment services program for children block grant funds .....	284(5.1o)
Current operations.....	284(2.1)
Developmentally disabled waiting list for services block grant funds .....	284(5.1a)
Group home tracking system .....	284(10.18A)
Substance abuse services for women with children .....	284(5.1j)
Division of Public Health	
ADAP (AIDS Drug Assistance Program) .....	284(10.31a)–(10.31b)
Current operations.....	284(2.1)
HIV/STD prevention block grant funds .....	284(5.1a)
HIV/STD risk reduction projects block grant funds.....	284(5.1a)
Immunization program funding.....	284(10.30a)–(10.30b)
Maternal and child health hotline block grant funds .....	284(5.1a)
Division of Services for the Blind	
Block grant funds.....	284(5.1a)
Current operations.....	284(2.1)
Division of Services for the Deaf and Hard of Hearing	
Current operations.....	284(2.1)
Division of Social Services	
After-school services for at-risk children .....	284(5.1m)
Child caring agencies block grant funds.....	284(5.1a)
Child welfare training block grant funds .....	284(5.1p)
Child welfare workers block grant funds.....	284(5.1a), (5.1n)
Comprehensive treatment services program for children block grant funds .....	284(5.1o)
Current operations.....	284(2.1)
Domestic violence services for Work First families.....	284(5.1l)
Placement of nonfederal IV-E children .....	284(5.1t)
Special Children Adoption Fund .....	284(10.47a)–(10.47b)
State/County Special Assistance.....	284(10.52e)
TANF block grant.....	284(5.1a), (5.1i)
Division of Vocational Rehabilitation Services	
Block grant funds.....	284(5.1a)
Current operations.....	284(2.1)
Easter Seals Society block grant funds.....	284(5.1a)
HIV/AIDS education, counseling, and testing block grant funds.....	284(5.1a)

**Health and Human Services, Department of (DHHS)—continued**

Increases in federal fund availability .....	284(5.1c)
Medical child care pilot funds.....	284(5.1g)
NC Health Choice .....	284(2.1)
Newborn screening program follow-up testing funds.....	284(5.1f)
Office of Minority Health block grant funds .....	284(5.1a)
Office of the Secretary	
Current operations.....	284(2.1)
NC Inter-Agency Council for Coordinating	
Homeless Programs .....	284(5.1a)
Outreach services to low income elderly.....	284(5.1a)
Oil overcharge funds for weatherization assistance	
program .....	284(10.1a)–(10.1b)
Physician services to clients in Dept. facilities .....	284(10.6)
Second Harvest North Carolina food banks.....	284(10.55a)–(10.55b)
UNC-CH CARES block grant funds.....	284(5.1a)
Boys and Girls Clubs grant program .....	284(5.1u)
Buprenorphine dispenser registration.....	335
Butner Advisory Council elections cost reimbursement .....	346(1)
Butner community land reservation .....	284(10.8)
Certain reports required to be made to Legislative Oversight	
Committee on Mental Health, Developmental Disabilities,	
and Substance Abuse Services .....	58
Child Fatality Review Team may compel records disclosure .....	304(6)
Cooperation in child abuse and neglect investigations.....	407(2)
Dissemination of child care facilities law information to	
parents.....	196
Division of Aging	
Appropriations —see Appropriations, this heading	
Senior center outreach.....	284(10.42a)–(10.42c)
Division of Child Development	
Appropriations —see Appropriations, this heading	
Child care allocation formula.....	284(10.36a)–(10.36b)
Child care center licensure fees.....	284(34.12a)–(34.12b)
Child care eligibility for noncitizen families .....	284(10.35h)
Child care funds matching requirement .....	284(10.34)
Child Care Revolving Loan Fund use .....	284(10.37)
Child care subsidy rates.....	284(10.35a)–(10.35h)
Early Childhood Education and Development Initiatives.....	284(10.38k)
Activities report .....	284(10.38k)
Administrative costs .....	284(10.38a)
Allocation of funds .....	284(10.38e)
Audit penalty.....	284(10.38j)
Child care subsidy expenditures .....	284(10.38g)
Competitive bidding practices .....	284(10.38b)
Duplication of services study.....	284(10.38i)
Enhancements .....	284(10.38a)–(10.38n)
Evaluation .....	284(10.39)
Federal funds allocations .....	284(10.38h)

**Health and Human Services, Department of (DHHS)—continued**

Division of Child Development—continued

Early Childhood Education and Development Initiatives—continued

Local partnerships .....	284(10.38f), (10.38l), (10.38m), (10.38n)
Matching fund requirement .....	284(10.38c)
Performance-based evaluation system.....	284(10.38d)
Quality child care initiatives plan .....	284(10.38i)
Smart Start audit .....	284(19.1)
Family child care home fees.....	284(10.39A)
More-At-Four Program	
Expansion.....	284(10.40d)
Funds.....	284(10.40a)
Implementation .....	284(10.40c)
Progress report.....	284(10.40e)
Task force created.....	284(10.40b)
Smart Start —see Early Childhood Education and Development Initiatives, this heading	

Division of Educational Services

Appropriations —see Appropriations, this heading

Division of Facility Services

Abortion services certification fees.....	284(34.7a)–(34.7b)
Adult care home fees.....	284(34.1a)–(34.1b)
Ambulatory surgical facility licensure fees.....	284(34.5a)–(34.5b)
Appropriations —see Appropriations, this heading	
Cardiac rehabilitation services licensure fee.....	284(34.6a)–(34.6b)
Continuing care retirement communities licensure fees .....	284(34.9a)–(34.9b)
Health care facility construction projects review fee.....	284(34.11a)–(34.11b)
Home care agency licensure fees .....	284(34.4a)–(34.4b)
Hospital licensure fees .....	284(34.2a)–(34.2b)
Mental health, developmentally disabled, and substance abuse facilities licensure fees.....	284(34.8a)–(34.8b)
Nursing home licensure fees .....	284(34.3a)–(34.3b)

Division of Medical Assistance

Appropriations —see Appropriations, this heading

Community Alternatives Program for Disabled Adults

Audit .....	284(10.29Ba)
Review .....	284(10.29Bb)–(10.29Bc)

Health Choice Program .....

284(10.29a)–(10.29b)
----------------------

Medicaid.....

284(10.19a)–(10.19bb)	
Allocation of nonfederal cost.....	284(10.19b)
Assessment program for skilled nursing facilities.....	284(10.28a)–(10.28c)
Categorically needy family enrollment .....	284(10.19p)
Copayment for services .....	284(10.19c)
Cost containment .....	284(10.19l), (10.23)
County cost share.....	284(10.22a)–(10.22b)
Coverage for those 21 and under .....	284(10.19n)
Dental coverage limits .....	284(10.19g)

**Health and Human Services, Department of (DHHS)—continued**

Division of Medical Assistance—continued

Medicaid—continued

Eligibility classification updates.....	284(10.19m)
Family planning services coverage.....	284(10.19u)
Federal Medicaid funds increase.....	284(10.24a)–(10.24b)
Generic drugs.....	284(10.19h)
Hospital payments evaluation.....	284(10.29C)
ICF/MR work incentive allowances.....	284(10.19f)
Incentives for fraud recovery.....	284(10.19q)
Income eligibility standards.....	284(10.19d)–(10.19e)
Income property equity value assessment.....	284(10.19y)
Information system enhancement funding.....	284(10.19r)
Medical coverage policy amending and adoption.....	284(10.19bb)
Medicare enrollment required.....	284(10.27)
No prior authorization for certain drugs.....	284(10.19i)
No services change without review.....	284(10.19z)
Pregnant women and children coverage.....	284(10.19o)
Provider reimbursement rate setting.....	284(10.19v)
Reports — <i>see</i> that heading	
Reserve fund transfer.....	284(10.20)
Service limitations exceptions.....	284(10.19j)
Services for students with disabilities collaboration.....	284(10.29A)
Temporary rules authorized.....	284(10.19s)
Therapeutic mental health services coding.....	284(10.19w)
Transfer of assets policy on real property.....	284(10.19x)
Transfer of property to qualify.....	284(10.26)
Vision care standards for children review.....	284(10.19aa)
Volume purchase plans and single source procurement.....	284(10.19k)

Division of Mental Health, Developmental Disabilities,  
and Substance Abuse Services

Appropriations —*see* Appropriations, this heading

Area mental health administrative costs.....	284(10.17a)–(10.17c)
Community-based services funding.....	284(10.9)
Comprehensive treatment services program.....	284(10.13)
Consumer advocacy program funding contingency.....	284(10.10)
Group home tracking system.....	284(10.18A)
Mental retardation centers.....	284(10.14a)–(10.14d), (10.15a)–(10.15c)
Multiply diagnosed adults services.....	284(10.16a)–(10.16d)
Physician services to clients in Dept. facilities.....	284(10.6)
Private agency uniform cost finding requirement.....	284(10.18a)–(10.18b)
State mental hospitals transition planning.....	284(10.12a)–(10.12d)
Substance abuse prevention services reporting.....	284(10.11)
Trust Fund for System Reform Bridge.....	284(10.9)

**Health and Human Services, Department of (DHHS)—continued**

Division of Public Health

ADAP (AIDS Drug Assistance Program)

Eligibility and utilization ..... 284(10.31a)–(10.31b)

Income eligibility expansion.....284(10.31Aa)–(10.31Ac)

Appropriations —*see* Appropriations, this heading

Asbestosis/silicosis examination under workers'

compensation ..... 284(10.33a)– (10.33f)

Disposal of asbestosis/silicosis x-rays plan..... 284(10.33e)

Immunization program funding ..... 284(10.30a)–(10.30b)

Newborn hearing screening program report .....284(10.32)

Pap smear analysis fee..... 284(34.13a)–(34.13b)

Division of Services for the Blind

Appropriations —*see* Appropriations, this heading

Division of Services for the Deaf and Hard of Hearing

Appropriations —*see* Appropriations, this heading

Division of Social Services

Adult care home model for community-based

services..... 284(10.43a)–(10.43b)

Appropriations —*see* Appropriations, this heading

Child support program enhanced standards ..... 284(10.44a)–(10.44c)

Child welfare services staff training ..... 304(4.2), (7.1)

Child welfare system pilots ..... 284(10.56a)–(10.56d)

Child welfare training initiatives.....284(5.1p)

Foster care home applicants registry ..... 304(5)

Foster care/adoption assistance payments..... 284(10.46a)–(10.46d)

Intensive Family Preservation Services Program

funding and performance enhancement ..... 284(10.48a)–(10.48e)

Masters degree in social work support.....284(5.1p)

Regional child welfare training center .....284(5.1p)

Residential child care facility training .....284(5.1p)

Special Assistance In-Home Program..... 284(10.51a)–(10.51c)

Special Children Adoption Fund.....284(5.1s), (10.47a)–(10.47b)

Special Needs Adoption Incentive Fund created .....284(10.45)

State/County Special Assistance .....284(10.52a)–(10.52f), (10.52f),  
(10.53a)–(10.53c)

TANF (Temporary Assistance to Needy Families)

Electing counties..... 284(10.49c)–(10.49d)

Electing counties funds revert .....284(10.50)

State plan changes..... 284(10.49a)–(10.49d)

Work First reporting requirements eliminated .....284(10.57)

Division of Vocational Rehabilitation Services

Appropriations —*see* Appropriations, this heading

Duties of the Council for the Deaf and Hard of Hearing.....343(1)

Early Childhood Education and Development Initiatives —

*see* Division of Child Development, this heading

Emergency medical personnel credentialing .....392(2b)

Enhanced penalties for Child Care Facilities Act violations..... 192

**Health and Human Services, Department of (DHHS)—continued**

Financing of new psychiatric hospital at Butner .....	314
Foster care criminal records checks for licensure .....	304(4)
Group home licensing process.....	294(2)–(4)
Infant homicide prevention education and awareness.....	284(10.8Ba)–(10.8Bb)
Information technology operation centralization analysis and plan.....	284(10.8Aa)– (10.8Ac)
Land transfers for millennium campuses at UNC-Greensboro and NC A & T .....	284(6.20)
Local health director pilot.....	284(10.33C)
Long-term care community service coordination pilot project.....	284(10.8Fa)–(10.8Fb)
Maternity homes services .....	284(5.1r)
Medical liability coverage for health care employees.....	284(10.7a)–(10.7c)
Medication error reduction steps for nursing homes .....	393
Mental health commitment requirements temporary waiver .....	178
More-At-Four Program — <i>see</i> Division of Child Development, this heading	
NC Health Choice	
Appropriations — <i>see</i> Appropriations, this heading	
Newborn screening program follow-up testing.....	284(5.1f)
No-cost contract extensions allowed for nongovernmental grant recipients under TANF block grant.....	284(5.1e)
Non-Medicaid reimbursement changes .....	284(10.4)
Office of Educational Services	
Residential schools reporting .....	284(10.41)
Office of Policy and Planning	
Created .....	284(10.2a)–(10.2b)
Physician services to clients in Dept. facilities.....	284(10.6)
Private DWI offender services facility .....	396(1), (3)–(4)
Protective services entry in to private home.....	304(4.1)
Regional inter-agency coordinating councils for children from birth to five with disabilities and their families created .....	391
Reports — <i>see</i> that heading	
Schools for the deaf attendance eligibility .....	253
Secretary	
Appointments — <i>see</i> Appointments	
Appropriations — <i>see</i> Appropriations, this heading	
Salary.....	284(30.2)
Senior cares program administration.....	284(10.5)
Settlement of small claims against institutions.....	285
Smart Start — <i>see</i> Division of Child Development, this heading	
State agency teachers' compensation.....	284(30.14C)
State Medical Facilities Plan excluded from definition of a rule .....	229
TANF (Temporary Assistance to Needy Families) — <i>see</i> Division of Social Services, this heading; Welfare	
Traumatic Brain Injury Advisory Council created.....	114

**Health and Human Services, Department of (DHHS)—continued**

Vaccination for first responders.....	227
Weatherization assistance program for low-income families .....	284(10.3)
Welfare — <i>see</i> that heading	
Work First — <i>see</i> Welfare	
Work over welfare demonstration program in Cabarrus County evaluation .....	188
<b>Health and Wellness Trust Fund Commission—expenditure of remaining balance of funds.....</b>	<b>284(2.2g)</b>
<b>Health, Departments of (County)</b>	
Childhood injury prevention block grant funds.....	284(5.1a)
Healthy mothers/healthy children block grants .....	284(5.1a)
High-risk maternity clinic services block grant funds.....	284(5.1a)
HIV/STD prevention block grant funds .....	284(5.1a)
Local health director pilot.....	284(10.33C)
Perinatal education and training block grant funds .....	284(5.1a)
Public information and education and technical assistance block grant funds .....	284(5.1a)
<b>Health Services</b>	
Abortion services certification fees .....	284(34.7a)–(34.7b)
Accounting of funds distribution from personal injury recovery .....	309
Adult day and health centers rate-setting rules.....	284(10.58)
Ambulatory surgical facility licensure fees .....	284(34.5a)–(34.5b)
Anatomical gift instruments notary exemption .....	70
Area Health Education Center funds .....	284(9.7)
Cardiac rehabilitation services licensure fee .....	284(34.6a)–(34.6b)
Certificate of need chemical dependency treatment definitions .....	390(1)–(2)
Cervical Cancer Elimination Task Force created .....	176
Cervical cancer screening coverage.....	186
Child medical evaluation program block grant funds .....	284(5.1a)
Contracted Corrections medical positions conversion .....	284(16.8a)–(16.8b)
County appeal in juvenile "pay order" cases .....	171
Detoxification facilities shall not deny treatment on ability to pay .....	390(3)
Disposal of asbestosis/silicosis x-rays plan .....	284(10.33e)
Easter Seals Society block grant funds.....	284(5.1a)
Emergency medical services act changes .....	392(2a)–(2i)
Health care facilities to verify licensure of nurses .....	146(6)
Health care facility construction projects review fee .....	284(34.11a)–(34.11b)
Health Choice Program.....	284(10.29a)–(10.29b)
Health coverage guarantee for employees subject to required smallpox vaccine .....	169
High-risk maternity clinic services block grant funds.....	284(5.1a)
Home care agency licensure fees.....	284(34.4a)–(34.4b)
Immunization program funding.....	284(10.30a)–(10.30b)
Inmate costs .....	284(16.6a)–(16.6c)

**Health Services—continued**

Insurance schedule of fees, claims submission, and reimbursement policies disclosure to providers .....	369
Integrative medicine defined .....	366(2)
Involuntary sterilization laws repealed.....	13
Licensed psychological associate may receive payment from a health plan.....	368(1)–(3)
Limitations on State funds for abortions .....	284(10.54)
Medicaid — <i>see</i> that heading	
Medical child care pilot funds .....	284(5.1g)
Medication error reduction steps for nursing homes .....	393
Medication management advisory committees required for nursing homes .....	393
Mobile medical operating room .....	284(16.7)
Newborn hearing screening program report.....	284(10.32)
Newborn screening program follow-up testing.....	284(5.1f)
Nursing — <i>see</i> that heading	
Out-of-state physicians may practice at therapeutic recreation camps .....	109
Pap smear analysis fee .....	284(34.13a)–(34.13b)
Paramedics license plate .....	68
Perinatal education and training block grant funds .....	284(5.1a)
Physician services to clients in Dept. facilities.....	284(10.6)
Physicians — <i>see</i> that heading	
Rebirthing technique prohibited .....	205
Respiratory care licensure.....	384
Senior cares program administration.....	284(10.5)
Services to children with special health care needs block grant funds .....	284(5.1a)
Statewide health promotion program block grant funds .....	284(5.1a)
Statewide trauma system peer review committees .....	392(2c)
<b>Health Services, Commission for</b>	
Coastal recreation waters monitoring rules .....	149
Technical corrections and conforming changes .....	340(1.5), (3)
<b>Heart Disease and Stroke Prevention Task Force—</b>	
name change.....	284(10.33B)
<b>Help America Vote Act</b> .....	12; 226; 284(25.1a)–(25.1b)
<b>Henderson, City of</b>	
May accept deed subject to deed of trust.....	322(2)
Private sale of certain property .....	322(1)
Weeded lot violation notification .....	40
<b>Henderson County</b>	
Hendersonville, Town of — <i>see</i> that heading	
Mills River, Town of — <i>see</i> that heading	
<b>Hendersonville, Town of—Western Justice Academy named for Larry T. Justus</b> .....	289
<b>Hertford County—Meherrin Tribe recognition</b> .....	54(2)



<b>Hickory, City of</b>	
Catawba Science Center grassroots science program grant-in-aid .....	284(11.1a)
Wheel locks authorized.....	328(4)
<b>High Point, City of</b> —demolition of unsafe residential buildings in community development areas .....	23
<b>Higher Education</b>	
Education Board to encourage early entry to higher education.....	251
Johnson and Wales University funds.....	284(12.4Aa)–(12.4Ab)
Masters degree in social work support funds .....	284(5.1p)
Nurses license plate to support nursing scholarships .....	11
Parental Savings Trust Fund payroll deduction for State employees .....	224
Postsecondary degree institutions to provide meningococcal immunization.....	194
<b>Highlands, Town of</b> —Highlands Nature Center grassroots science program grant-in-aid .....	284(11.1b)
<b>Highway Fund</b> — <i>see</i> Transportation, Department of	
<b>Highway Trust Fund</b> — <i>see</i> Transportation, Department of	
<b>Highway Trust Fund Study Committee</b> —created .....	284(29.12a)–(29.12m)
<b>Historic Preservation</b> ( <i>see also</i> Cultural Resources)	
Blount Street historic district property sale .....	404
Historic rehabilitation tax credit .....	415 (1)–(2)
Historic structure demolition regulation in Apex .....	88(2)
Nags Head Historic Preservation Commission membership.....	46
Technical corrections and conforming changes .....	416(4a)–(4d)
<b>Historical Commission</b> —historic structure rehabilitation fees .....	284(35A.2)
<b>HIV (Human Immunodeficiency Virus)</b> — <i>see</i> AIDS (Acquired Immune Deficiency Syndrome)	
<b>HMOs</b> — <i>see</i> Insurance	
<b>Hoke County</b>	
Indian Cultural Center Board appointments .....	260
Raeford, City of — <i>see</i> that heading	
<b>Holidays</b>	
Legal deadlines falling on a holiday clarification .....	337
Veterans Day a holiday for school personnel.....	131
<b>Holly Springs, Town of</b> —charter consolidation .....	73
<b>Home Health Care</b> — <i>see</i> Health Services	
<b>Horticulture</b> —nursery dealer certification fees.....	284(35.3b)
<b>Hospitals and Clinics</b>	
Abortion services certification fees .....	284(34.7a)–(34.7b)
Ambulatory surgical facility licensure fees .....	284(34.5a)–(34.5b)
Certificate of need chemical dependency treatment definitions .....	390(1)–(2)
Detoxification facilities shall not deny treatment on ability to pay .....	390(3)
Financing of new psychiatric hospital at Butner .....	314

**Hospitals and Clinics—continued**

Health care facilities to verify licensure of nurses ..... 146(6)  
Health care facility construction projects review fee ..... 284(34.11a)–(34.11b)  
Hospital licensure fees ..... 284(34.2a)–(34.2b)  
Involuntary sterilization laws repealed..... 13  
Medicaid payments evaluation ..... 284(10.29C)  
Medical liability coverage for certain State health  
care employees ..... 284(10.7a)–(10.7c)  
Mental health, developmentally disabled, and substance  
abuse facilities licensure fees ..... 284(34.8a)–(34.8b)  
Mobile medical operating room ..... 284(16.7)  
Non-Medicaid reimbursement changes ..... 284(10.4)  
Nonsmoking areas at universities ..... 292  
Settlement of small claims against DHHS institutions..... 285  
State mental hospitals transition planning ..... 284(10.12a)–(10.12d)  
Statewide trauma system peer review committees ..... 392(2c)

**Hotels and Motels**

Occupancy tax —*see* Taxes and Assessments

**Housing**

Complaints by fair housing organizations to Human  
Relations Commission..... 136  
Demolition of unsafe residential buildings in community  
development areas of certain cities ..... 23  
Energy assistance programs block grant funds..... 284(5.1a)  
Heating air repair and replacement program ..... 284(5.1a)  
HOME Program matching funds ..... 284(20.1a)–(20.1c)  
Homeowners recovery fund permit fee increase ..... 372  
Lead poisoning prevention ..... 150  
Manufactured homes —*see* that heading  
Order to repair residential property not meeting code  
in Greensboro ..... 76  
Repair of residential property not meeting code in Roanoke  
Rapids ..... 320(2)  
Residential tenant late fee ..... 370  
Weatherization programs block grant funds..... 284(5.1a)

**Housing Finance Agency**

Appropriations ..... 284(2.1)  
Executive Director's salary ..... 284(30.3)  
HOME Program matching funds ..... 284(20.1a)–(20.1c)

**Human Immunodeficiency Virus (HIV)—*see* AIDS**

(Acquired Immune Deficiency Syndrome)

**Human Relations Commission—complaints by fair housing**

organizations ..... 136

**Humanities Council**

Reports —*see* that heading

**Huntersville, Town of—Carolina Raptor Center grassroots**

science program grant-in-aid ..... 284(11.1b)

<b>Hunting and Fishing</b> ( <i>see also</i> Wildlife)	
Coyote hunting in controlled preserves .....	96(1)
Electrofishing for catfish allowed in Columbus County .....	21
Hunting from public right-of-way prohibited	
Craven County.....	164
Transylvania County .....	119(1)
Pistol use in hunting.....	160
Weapons permitted on Johnston Community College property	
for hunting with written permission .....	217
Written permission required to hunt on private land in	
Transylvania County .....	119(2)
<b>Hyde County</b>	
No recordation of deed without certificate of no delinquent	
taxes.....	72
Swan Quarter flood control dykes.....	284(31.2a)

**I**

<b>Identification Systems</b>	
DNA (Deoxyribonucleic acid) — <i>see</i> that heading	
ID required for first time voter .....	226(16)
Persons may not sign name of another to petitions .....	278(7)
<b>Incompetents</b> ( <i>see also</i> Mental Health)	
Limited guardianship.....	236(1)–(2)
<b>Indian Affairs, State Commission of</b>	
Appointments — <i>see</i> that heading	
Appropriations	
In-home services for the elderly block grant funds.....	284(5.1a)
Low-income energy block grant .....	284(5.1a)
Sappony membership.....	87
<b>Indian Cultural Center, Inc., Board of the North Carolina—</b>	
appointments and membership .....	55; 260
<b>Indigent Defense Services, Office of</b>	
Appointment fee for criminal defendants.....	284(13.11)
Public defender study .....	284(13.6)
Reports — <i>see</i> that heading	
<b>Industrial Commission</b>	
Asbestosis/silicosis examination under workers'	
compensation.....	284(10.33a)–(10.33f)
Computer system replacement.....	284(12.6Ca)–(12.6Ce)
Health coverage guarantee for employees subject to	
required smallpox vaccine.....	169
Stay of proceedings.....	167(4)
<b>Industrial Location—</b> <i>see</i> Planning and Zoning	
<b>Information Resources Management Commission</b>	
HIPAA implementation .....	284(6.7a)–(6.7c)
IT budget structure review.....	284(21.1)
Legacy information technology systems analysis and	
modernization plan.....	172

<b>Information Technology</b>	
Computer crimes positions transfers .....	284(14.8)
Computer system replacement funds for Industrial Commission.....	284(12.6Ca)– (12.6Ce)
Corrections computer/data processing services funds .....	284(16.11)
E-NC Authority created.....	425(1)
Information technology operation centralization analysis and plan for DHHS.....	284(10.8Aa)–(10.8Ac)
IT budget structure review.....	284(21.1)
Juvenile Justice Information System .....	284(17.2a)–(17.2b)
Local boards of education E-Procurement system use.....	147
Management information system funds for Community College System.....	284(8.9a)–(8.9b)
Medicaid information system enhancement funding.....	284(10.19r)
Real estate licensure testing.....	361(1)
Security assessment .....	153(1)
State agency business continuity planning .....	153(2)
Student information system testing and implementation funds .....	284(7.21a)–(7.21c)
Technology infrastructure enhancements report .....	284(28.3)
<b>Information Technology Services, Office of</b>	
Chief Information Officer's salary .....	284(30.3)
Information technology security assessment.....	153(1)
Infrastructure maintenance agreement pilot project.....	284(21.2a)–(21.2b)
IT budget structure review.....	284(21.1)
Legacy systems analysis and modernization plan .....	172
Local boards of education E-Procurement system use.....	147
<b>Infrastructure</b>	
Critical infrastructure needs funds.....	284(5.2g)
E-NC Authority created.....	425(1)
<b>Innovative Education Initiatives Act.....</b>	
277	
<b>Inspections</b>	
Animal waste management system inspection pilot program extended .....	340(6.1)–(6.2)
Reinspection of workplaces with previous serious safety violations.....	174
<b>Institute for Minority Economic Development—see</b>	
Minority Economic Development, Institute for	
<b>Institutionalized Persons—see Hospitals and Clinics;</b>	
Mental Health	
<b>Insurance</b>	
Annual to perpetual licensing .....	212(26)
Conform laws to NAIC statutory accounting principles .....	212(4)–(13)
Covered claim definition .....	167(1)
Customer information protection.....	262

## Insurance—continued

Disability	
State Disability Income Plan	
Earnings report.....	359(23)
Study .....	284(30.20c)
Equalize insurance tax rates on Article 65 corporations .....	284(43.1)–(43.4)
Guarantee Association Act .....	167
Health	
Cervical cancer screening coverage.....	186
Child support requirements .....	288(3.2)
HIPAA.....	284(6.6), (6.7a)–(6.7c)
HMO net worth requirements .....	212(21)
HMO reserve requirement repealed.....	212(20)
Hospital, medical, and dental service organizations .....	212(17)–(18)
Licensed psychological associate may receive payment from a health plan .....	368(1)–(3)
Marriage and family therapists included in insurance freedom of choice .....	117(1)–(2)
Medicaid — <i>see</i> that heading	
Non-Medicaid reimbursement changes.....	284(10.4)
Notification of availability of Managed Care Patient Assistance Program.....	105
Office furniture not part of net worth.....	212(19)
Ovarian cancer test coverage.....	223
Reserve to implement HIPPA .....	284(2.1)
Schedule of fees, claims submission, and reimbursement policies disclosure to providers.....	369
Self-Insurance Guaranty Association amendments .....	115
Teachers' and State Employees' Comprehensive Major Medical Plan (TSECMMP)	
Charter school participation.....	69
Employer salary-related contributions.....	284(30.16a)–(30.16e)
Gover Garden charter school participation.....	354(1)
HIPAA implementation .....	284(6.7a)–(6.7c)
Out-of-network and out-of-state provider coverage.....	284(30.19Ba)–(30.19Bb)
Reserve for State Health Plan .....	284(2.1)
Technical corrections and conforming changes.....	212
Initial deposit increase for foreign or alien insurers.....	212(1)–(3)
Insurance company document submission requirements .....	290(3)
Liability	
Medical liability coverage for certain State health care employees.....	284(10.7a)– (10.7c)
Real property warranty companies to carry contractual liability policies.....	290(1a)

**Insurance—continued**

**Liability—continued**

Self-funded risk program deemed purchase of insurance for waiving immunity.....	175
Uninsured motorist coverage .....	311
Wilmington settlement of claims by City Manager.....	41

**Life**

**Death benefits**

Emergency workers death due to heart attack .....	284(30.18Ab)
Increase for certain emergency workers .....	284(30.18Aa)
State Plan study.....	284(30.20c)
NAIC model standard nonforfeiture law for deferred annuities adopted.....	144
Replacement rules disapproved.....	143

Managed Care —*see* Health this heading

Medicaid —*see* that heading

**Motor vehicle**

Credit history as sole basis for coverage termination or consent to rate prohibited.....	216
Defined motor vehicle accident damage amount increase.....	137
Financial interest in repair facility disclosure .....	395(1)
Uninsured motorist coverage .....	311
Use of nonoriginal parts disclosure.....	395(2)–(3)
Mutual insurance companies governing directors .....	212(14)–(16)
Ocean marine insurance definition .....	167(1)
Policy limit disclosure prior to filing suit.....	307(1)
Prelitigation mediation.....	307(2)

**Property**

Beach Plan.....	158(1)–(3), (3.1)
Credit history as sole basis for coverage termination or consent to rate prohibited.....	216
Self-service storage insurance sales license .....	290(6)
Public construction contract surety bonds designation of surety company, agent, broker prohibited .....	212(27)
Regulatory charge.....	284(33.1a)–(33.1b)
Self-Insurance Guaranty Association amendments .....	115
Stay of proceedings.....	167(4)
Teachers' and State Employees' Comprehensive Major Medical Plan (TSECMMP) — <i>see</i> Health this heading	
Technical corrections and conforming changes .....	167; 212; 221; 290(4)

**Unemployment**

Availability for part-time work .....	220(5)
Exemption from disqualification for domestic violence, sexual offense, or stalking.....	220(3)
Family health and disability not disqualifying cause for leaving work.....	220(1)
Forms of businesses clarification.....	67(1)
No refunds for employers converting from taxable to reimbursable status.....	220(4)

<b>Insurance—continued</b>	
Unemployment—continued	
Surtax reinstatement.....	405
SUTA dumping increased penalties.....	67(2)
Technical corrections and conforming changes.....	220(2)
Temporary disqualification period for moving with spouse decreased.....	220(6)
Unemployment benefits due to industrial disaster.....	1
Workers' compensation	
Appropriations.....	284(2.1)
Asbestosis/silicosis examination under workers' compensation.....	284(10.33a)–(10.33f)
Definition of employee newspaper/magazine sales clarification.....	156
Employee status of truck/tractor trailer driver.....	235
Health coverage guarantee for employees subject to required smallpox vaccine.....	169
Self-insurance licensing.....	212(24)–(25)
Technical corrections and conforming changes.....	221
<b>Insurance, Department of</b>	
Accountings in testamentary trusts.....	261
Affidavit required of bail bondsmen.....	148
Appropriations	
Current operations.....	284(2.1)
Transfers to General Fund.....	284(22.1)
Commissioner's salary.....	284(30.1b)
Continuing care retirement laws technical changes.....	193
Customer information protection.....	262
Equalize insurance tax rates on Article 65 corporations.....	284(43.1)–(43.4)
Insurance company document submission requirements.....	290(3)
Life insurance replacement rules disapproved.....	143
Mechanical breakdown service agreement companies subject to requirements of service agreement companies.....	290(4)
Motor vehicle and service agreement companies document submission requirements.....	290(2)
NAIC model standard nonforfeiture law for deferred annuities adopted.....	144
Notification of availability of Managed Care Patient Assistance Program.....	105
Operations funding by Insurance Regulatory Fund sunset extended.....	284(22.2)
Regulatory charge.....	284(33.1a)–(33.1b)
Self-service storage insurance sales license.....	290(6)
Service agreement company expanded definition.....	290(1b)–(1c)
Technical corrections and conforming changes.....	290(4)
<b>Insurance Guarantee Association Act.....</b>	<b>167</b>

<b>Inter-Agency Council for Coordinating Homeless Programs</b>	
Block grant funds.....	284(5.1a)
Expenditures report.....	284(5.1v)
<b>Interest</b> — <i>see</i> Investments; Loans	
<b>International Trade and Business</b> — <i>see</i> Commerce	
<b>Internet</b> — <i>see</i> Electronic Commerce; Electronic Government; Information Technology	
<b>Interpreter and Transliterator Licensing Board</b> —effective date delay .....	56
<b>Interpreter and Transliterator Licensure Act</b> .....	56
<b>Interstate Cooperation</b>	
Conform to streamlined sales and use tax agreement.....	284(45.1)–(45.12)
Interstate high-speed rail compact study .....	284(29.19a)–(29.19b)
Joint development activities authorized for Clay County with county in adjoining state .....	127
National Crime Prevention and Privacy Compact.....	214
Out-of-state real estate brokers and salesperson limitations .....	361(3)–(4)
Reciprocal concealed handgun permits .....	199
<b>Investigations</b> —long-term care criminal record checks effective date .....	284(10.8E)
<b>Investments</b>	
Dividend deduction change .....	349(1.1)–(1.3)
Hospital, medical, and dental service organization asset limits .....	212(18)
Retirement and employee benefit fund investments by Fayetteville .....	318(4)
Secretary of State fees .....	284(35B.1a)–(35B.3b)
Securities fraud prevention .....	413(1)–(27)
Shareholder dissenter's rights in majority consent action .....	157
Technical corrections and conforming changes .....	416(15)
<b>Iredell County</b>	
Statesville, City of — <i>see</i> that heading	
TANF electing county .....	284(10.49c)–(10.49d)

**J**

<b>Jackson County</b>	
Cashiers, Town of — <i>see</i> that heading	
Cashiers, Village of — <i>see</i> that heading	
<b>Jails</b> — <i>see</i> Correctional Institutions	
<b>Johnston County</b>	
Pine Level, Town of — <i>see</i> that heading	
Smithfield, Town of — <i>see</i> that heading	
Weapons permitted on Johnston Community College property for hunting with written permission .....	217
Jonesville, Town of—annexation .....	44



## Judicial Department

Administrative Office of the Courts (AOC) —*see* Courts

### Appropriations

Center for Death Penalty Litigation .....	284(13.10)
Current operations .....	284(2.1)
Equipment and supplies transfer .....	284(13.7)
Indigent defense .....	284(2.1)
Drug treatment court program case manager cost savings .....	284(13.4a)–(13.4b)
Employees' salaries .....	284(30.4b)
Federal grant matching funds .....	284(13.5)
Indigent Defense Services, Office of — <i>see</i> that heading	
Magistrate authorization adjustment .....	284(13.8)
Offender fees collection .....	284(16.15)
Positions/programs eliminated for savings .....	284(13.1b)
Reports — <i>see</i> that heading	
Worthless check funds use .....	284(13.2)

## Juries—*see* Courts

## Justice, Department of

Appropriations .....	284(2.1)
Computer crimes positions transfers .....	284(14.8)
Criminal record checks	
Fee adjustment study .....	284(14.5b)
Fire departments .....	182
Locksmith Board .....	350(4)–(5), (11)–(12)
Litigation expenses to be paid by clients .....	284(14.3)
Positions/programs eliminated for savings .....	284(13.1b)
Rape kits	
Analyses by private vendor .....	284(14.9)
Priority .....	284(14.7)
Seized and forfeited property use .....	284(14.1a)–(14.1c)
State Bureau of Investigation (SBI) — <i>see</i> Law Enforcement	
UNC Board legal representation reimbursement .....	284(14.4)

## Justus-Warren Heart Disease and Stroke Prevention

**Task Force**—name changed from Heart Disease and Stroke

Prevention Task Force .....	284(10.33B)
-----------------------------	-------------

## Juvenile Code

Abuse, neglect, dependency purpose clarification .....	140(5)
Appointment of guardian .....	140(9a)–(9d)
Attorneys defined as court officer .....	140(10)
Copy of petition and notice to guardian ad litem .....	140(6)
Costs in criminal actions repealed .....	140(1)
County appeal in juvenile "pay order" cases .....	171
Evidence admissibility clarification .....	62
Guardian ad litem appointment .....	140(7)
Juvenile facilities — <i>see</i> Correctional Institutions	
Legal deadlines falling on a holiday clarification .....	337

**Juvenile Code**—continued

Parental rights termination for inability to care and lacking  
alternative child care..... 140(3)–(4)  
Photographing of juvenile detainees.....297(2)  
Predisposition report..... 140(2)  
Protective services entry in to private home.....304(4.1)  
Service of summons change for child abuse, neglect,  
dependency cases.....304(1)  
Termination of parental rights hearing time limit .....304(2)

**Juvenile Facilities**—*see* Correctional Institutions

**Juvenile Justice and Delinquency Prevention, Department of**

Appropriations  
Current operations.....284(2.1)  
Support Our Students .....284(5.1a), (5.1k), (15.1)  
Transfer for planning and design of youth  
development centers.....284(15.7b)  
Boys and Girls Clubs annual evaluation.....284(15.5)  
Buncombe Youth Detention Center operation .....284(15.8)  
Community programs annual evaluation.....284(15.5)  
Compliance with audit report on youth development  
and detention centers .....284(15.9)  
Court approval for placement of juvenile in certain  
programs ..... 53  
Eckerd and Camp Woodson wilderness camp programs  
annual evaluation.....284(15.5)  
Governor's One-on-One programs annual evaluation .....284(15.5)  
Juvenile accountability incentive block grant matching  
funds .....284(15.4)  
Juvenile crime prevention council grants certification.....284(15.2b)  
Multipurpose group homes annual evaluation.....284(15.5)  
Positions/programs eliminated for savings.....284(13.1b)  
Reports —*see* that heading  
Samarkand Youth Academy timber sale ..... 284(15.10a)–(15.10c)  
Save Our Students annual evaluation .....284(15.5)  
Secretary's salary .....284(30.2)  
State agency teachers' compensation.....284(30.14C)  
Support Our Students  
Cost limits .....284(15.1)  
Expansion.....284(5.1k)  
Teen court program annual evaluation .....284(15.5)  
Youth development centers  
Bed funds.....284(15.6a)–(15.6b)  
New centers planning.....284(15.7a)–(15.7b)

**K**

**Kaitlyn's Law**..... 406  
**Kernersville, Town of**—expenditure of funds on roads outside corporate limits..... 132  
**Kindergarten**—*see* Education

<b>Kings Mountain, City of</b> —annexation.....	241
<b>Kinston, City of</b> —opportunities Industrialization Center funds ...	284(12.12a)–(12.12c)
<b>Kitty Hawk, Town of</b>	
Annexation.....	364(3)
Title to existing and erosion control built up land.....	364(1)–(2), (4)
<b>Kure Beach, Town of</b> —beach renourishment.....	284(31.2a)

## L

<b>Labor, Department of</b>	
Apprenticeship Program funds .....	284(12.6b)
Appropriations .....	284(2.1)
Commissioner's salary .....	284(30.1b)
Private personnel service	
Advisory Council repealed.....	308(10)–(12)
Application time limit .....	308(9)
Legal notice cost.....	308(9)
Reinspection of workplaces with previous serious safety violations .....	174
Service of notice .....	308(1)–(7)
<b>Laboratories</b> ( <i>see also</i> Testing)	
Pap smear analysis fee .....	284(34.13a)–(34.13b)
<b>Lake Lure, Town of</b> —Lake Lure Marine Commission created .....	332
<b>Lake Waccamaw, Town of</b> —electronic notification of public hearings .....	161(2)
<b>Lakes and Rivers</b>	
Aquatic weed control.....	284(31.2a)
Catawba River Basin water quality rules extension .....	340(5)
Dam repair assessments period extended for Pinehurst .....	259(2)
Deep Creek watershed management.....	284(31.2a)
Electrofishing for catfish allowed in Columbus County .....	21
Evaluate water quality and endangered species protection in Swift Creek.....	433(3)
Haw River State Park added to parks system .....	108
John H. Kerr Reservoir operations evaluation.....	284(31.2a)
Lake Lure Marine Commission created .....	332
Little Sugar Creek restoration.....	284(31.2a)
Mayo River State Park added to parks system .....	106
Neuse River Basin feasibility study.....	284(31.2a)
Pembroke Creek no-wake zone .....	189(1)–(5)
Princeville flood control study .....	284(31.2a)
Swan Quarter flood control dykes .....	284(31.2a)
Swift Creek/Sandy Creek reclassification .....	433(1)–(2), (4)
<b>Land Loss Prevention Project</b>	
Reports — <i>see</i> that heading	
<b>Landis, Town of</b> —mayor and aldermen term extension .....	126

## Law Enforcement

ALE agents subject to State Personnel Act .....	284(17.6)
Arrest order for failure to appear on misdemeanor citation .....	15
Child Alert Notification (AMBER Alert) system.....	191
Civil parking, red light camera, speed enforcement camera liability rules .....	380
Concealed handgun fee reduction for retired law enforcement .....	379
Cooperation in child abuse and neglect investigations.....	407(2)
Disclosure of police disciplinary records in Wilmington.....	238
Drug detection dog training controlled substances registration requirements .....	398
Drug law enforcement grants review.....	284(17.4a)–(17.4b)
Emergency pension fund changes for Mecklenburg County .....	323
Enhanced benefits for local government retirees .....	319
Fraternal Order of Police license plate .....	424(2)
National Crime Prevention and Privacy Compact.....	214
Nonfunctioning speedometer an included lesser offense in speeding violations .....	110
Parking ordinance adoption and enforcement for Salisbury .....	130
Private law enforcement use of force/arrest authorization extended.....	351
Private plates on public vehicles effective date change .....	284(6.5a)–(6.5b)
Private university law enforcement jurisdiction in Durham .....	329(2)
Removal of wrecked, abandoned, disabled vehicles, and property from controlled-access highways.....	310
Retired Law Enforcement Officers license plate.....	424(2)
Rule 45 subpoena rewrite .....	276
School safety officer indecent contact with student .....	98
Separate Insurance Benefits Plan for Law Enforcement Officers study .....	284(30.20c)
Sheriff of Richmond County vacancy .....	90
Special police jurisdiction for Butner.....	346(2)
State Bureau of Investigation (SBI) Computer crimes positions transfers .....	284(14.8)
Criminal Justice Information Network Governing Board transferred to Crime Control and Public Safety .....	284(17.1a)–(17.1c)
Surry sheriff vacancy .....	39
Terrorist response information not subject to open records/open meetings .....	180
Traffic control cameras For certain cities .....	86
Photographic-speed measuring device standards.....	280(2)–(3)
Pilot program for Charlotte .....	280(1), (4)

**Law Enforcement—continued**

Veterans Administration police assistance to State  
and local agencies..... 36  
Western Justice Academy named for Larry T. Justus ..... 289  
Wheel locks authorized for certain cities .....240; 328(4)

**Laws Amended or Repealed**

1798 Private Laws  
Chapter 76 ..... 330  
1895 Private Laws  
Chapter 197 ..... 328(2c)  
1901 Private Laws  
Chapter 259 ..... 203  
1905 Private Laws  
Chapter 43 ..... 203  
Chapter 344 ..... 328(2c)  
1907 Private Laws (Extra Session 1908)  
Chapter 43 ..... 328(2c)  
Chapter 53 ..... 328(2c)  
1919 Private Laws  
Chapter 110 ..... 328(2c)  
1925 Private Laws  
Chapter 160 ..... 281(4)  
1927 Private Laws  
Chapter 27 ..... 281(4)  
Chapter 89 ..... 281(4)  
Chapter 112 ..... 75  
1931 Private Laws  
Chapter 38 ..... 328(2c)  
1931 Public-Local Laws  
Chapter 446 ..... 323(2)  
1937 Private Laws  
Chapter 191 ..... 281(4)  
1937 Public-Local Laws  
Chapter 431 ..... 328(2c)  
1939 Private laws  
Chapter 35 ..... 281(4)  
1943 Session Laws  
Chapter 710 ..... 281(4)  
1945 Session Laws  
Chapter 932 ..... 281(4)  
1947 Session Laws  
Chapter 766 ..... 328(2c)  
1949 Session Laws  
Chapter 244 ..... 281(4)  
Chapter 667 ..... 203  
Chapter 709 ..... 281(4)  
Chapter 1184 ..... 161(1)

## Laws Amended or Repealed—continued

1951 Session Laws	
Chapter 100 .....	123
Chapter 110 .....	73
Chapter 576 .....	325
Chapter 577 .....	325(3)
1953 Session Laws	
Chapter 121 .....	73
Chapter 751 .....	123
1955 Session Laws	
Chapter 101 .....	325(3)
Chapter 1237 .....	325(3)
1957 Session Laws	
Chapter 14 .....	203
Chapter 1072 .....	281(4)
Chapter 1436 .....	16
1959 Session Laws	
Chapter 76 .....	203
Chapter 734 .....	281(4)
Chapter 1137 .....	33; 134
1961 Session Laws	
Chapter 101 .....	45
Chapter 1005 .....	281(4)
1963 Session Laws	
Chapter 120 .....	281(4)
Chapter 217 .....	45
Chapter 285 .....	281(4)
Chapter 521 .....	281(4)
Chapter 630 .....	281(4)
Chapter 652 .....	281(4)
Chapter 938 .....	327(3)
1965 Session Laws	
Chapter 427 .....	325(3)
Chapter 545 .....	327(3)
Chapter 709 .....	323(1)
Chapter 722 .....	121(1)
Chapter 1068 .....	327(3)
1967 Session Laws	
Chapter 74 .....	134
Chapter 305 .....	323(1)
Chapter 780 .....	40
Chapter 967 .....	82
1969 Session Laws	
Chapter 46 .....	281(4)
Chapter 142 .....	134
Chapter 291 .....	281(4)
Chapter 351 .....	34
Chapter 427 .....	327(3)
Chapter 936 .....	328(3c)

**Laws Amended or Repealed—continued**

1971 Session Laws	
Chapter 66 .....	325(3)
Chapter 419 .....	259
Chapter 426 .....	281(4)
Chapter 495 .....	73
Chapter 614 .....	325(3)
1973 Session Laws	
Chapter 213 .....	134
Chapter 388 .....	35
Chapter 485 .....	281(4)
Chapter 701 .....	325(3)
1973 Session Laws (Regular Session 1974)	
Chapter 943 .....	327(3)
1975 Session Laws	
Chapter 120 .....	121(1)
Chapter 213 .....	126
Chapter 297 .....	190(1)–(2)
Chapter 365 .....	327(3)
Chapter 671 .....	26; 51; 85
1977 Session Laws	
Chapter 15 .....	35
Chapter 75 .....	281(4)
Chapter 495 .....	41; 162; 238
1979 Session Laws	
Chapter 259 .....	121(2)
Chapter 284 .....	35
Chapter 304 .....	328(2c)
Chapter 342 .....	22
1981 Session Laws	
Chapter 147 .....	129
Chapter 159 .....	134
Chapter 258 .....	162
Chapter 617 .....	41
Chapter 647 .....	35
1983 Session Laws	
Chapter 122 .....	327(3)
Chapter 463 .....	325(3)
Chapter 464 .....	35
Chapter 649 .....	90
Chapter 830 .....	346(3)
Chapter 908 .....	166
1983 Session Laws (Regular Session 1984)	
Chapter 987 .....	166
1985 Session Laws	
Chapter 331 .....	73
Chapter 356 .....	88(1)
Chapter 382 .....	73
Chapter 726 .....	166

**Laws Amended or Repealed—continued**

1985 Session Laws (Regular Session 1986)	
Chapter 818 .....	202
Chapter 885 .....	190(1)–(2)
Chapter 941 .....	73
Chapter 971 .....	166
1987 Session Laws	
Chapter 70 .....	88(1)
Chapter 171 .....	281(12)
Chapter 205 .....	130
Chapter 476 .....	237(1)
Chapter 508 .....	35
Chapter 756 .....	51
1987 Session Laws (Regular Session 1988)	
Chapter 980 .....	175(3)
1989 Session Laws	
Chapter 328 .....	327(3)
Chapter 416 .....	281(4)
Chapter 793 .....	35
1991 Session Laws	
Chapter 204 .....	245
Chapter 251 .....	123
Chapter 404 .....	125
Chapter 761 .....	245
1991 Session Laws (Regular Session 1992)	
Chapter 792 .....	324
Chapter 793 .....	281(4)
1993 Session Laws	
Chapter 6 .....	134
Chapter 26 .....	281(4)
Chapter 291 .....	240(2); 328(4)
Chapter 379 .....	121(2)
Chapter 468 .....	125
1993 Session Laws (Regular Session 1994)	
Chapter 710 .....	121(1)
1995 Session Laws	
Chapter 30 .....	281(4)
Chapter 324 .....	284(10.54)
Chapter 381 .....	240(2); 328(4)
Chapter 507 .....	284(10.54)
Chapter 540 .....	166
1995 Session Laws (Regular Session 1996)	
Chapter 699 .....	324
1995 Session Laws (Second Extra Session 1996)	
Chapter 18 .....	323(2)
1997 Session Laws	
Chapter 41 .....	55(1); 260
Chapter 218 .....	240(2); 328(4)
Chapter 275 .....	318(1)–(2)



**Laws Amended or Repealed—continued**

1997 Session Laws—continued

Chapter 322 .....	330
Chapter 346 .....	24
Chapter 400 .....	111
Chapter 410 .....	281(12)
Chapter 443 .....	340(6.1)
Chapter 458 .....	266; 340(7)
Chapter 505 .....	230

1997 Session Laws (Regular Session 1998)

Chapter 19 .....	55(1); 260
Chapter 75 .....	78
Chapter 130 .....	318(1)–(2)
Chapter 188 .....	266; 340(7)
Chapter 200 .....	175(3)

1998 Session Laws

Chapter 92 .....	35
------------------	----

1999 Session Laws

Chapter 58 .....	77; 80; 120(2)
Chapter 66 .....	84
Chapter 111 .....	24
Chapter 232 .....	281(4)
Chapter 237 .....	284(7.16c)
Chapter 325 .....	281(4)
Chapter 329 .....	266; 340(6.1), (6.2), (7)
Chapter 389 .....	415 (1)

1999 Session Laws (Regular Session 2000)

Chapter 3 .....	284(9.3a), (9.3b), (9.3c), (9.3d), (9.3e), (9.3f)
Chapter 7 .....	326(2)
Chapter 26 .....	197(1)
Chapter 33 .....	77; 80
Chapter 38 .....	77; 80
Chapter 61 .....	197(1)
Chapter 120 .....	284(44.1)

2001 Session Laws

Chapter 12 .....	6
Chapter 46 .....	165
Chapter 107 .....	77; 80
Chapter 191 .....	128(1)
Chapter 254 .....	266; 340(6.1), (6.2), (7)
Chapter 266 .....	284(29.19a)–(29.19b)
Chapter 280 .....	380(5)
Chapter 286 .....	380(3)–(4)
Chapter 318 .....	55(1); 260
Chapter 330 .....	327(3)
Chapter 378 .....	351
Chapter 418 .....	340(5)
Chapter 424 .....	284(6.5a)–(6.5b), (38.1), (39.2)

**Laws Amended or Repealed—continued**

2001 Session Laws—continued

Chapter 437 .....	284(10.10)
Chapter 442 .....	340(2)
Chapter 486 .....	284(29.19a)–(29.19b)

2001 Session Laws (Regular Session 2002)

Chapter 44 .....	50
Chapter 65 .....	49
Chapter 79 .....	175(3)
Chapter 87 .....	416(1)
Chapter 114 .....	325(3)
Chapter 115 .....	326(2.1)
Chapter 126 .....	284(10.11), (23.1), (37A.4)
Chapter 127 .....	240(2); 328(4)
Chapter 138 .....	166
Chapter 141 .....	79
Chapter 144 .....	284(22.2)
Chapter 160 .....	284(10.8C)
Chapter 164 .....	294(5)
Chapter 172 .....	416(2)
Chapter 176 .....	340(6.1), (6.2)
Chapter 182 .....	56(2)–(3)
Chapter 347 .....	416(13)
Chapter 577 .....	416(14a)

2002 Session Laws

Chapter 118 .....	23; 42
Chapter 159 .....	2; 31(2)
Chapter 185 .....	158(3.1)

2003 Session Laws

Chapter 2 .....	31(3)
Chapter 9 .....	284(30.1Aa)–(30.14Ac)
Chapter 23 .....	42
Chapter 25 .....	284(37A.1)
Chapter 39 .....	90
Chapter 72 .....	189(6); 354(3)
Chapter 89 .....	355
Chapter 189 .....	354(3)
Chapter 240 .....	328(4)
Chapter 266 .....	340(7)
Chapter 284 .....	283; 383(8); 416(26), (27a)–(27b), (29a)

**Lenoir County**

Collection of unpaid water and sewer service fees .....	270
Kinston, City of —see that heading	
Opportunities Industrialization Center funds .....	284(12.12a)–(12.12c)
TANF electing county .....	284(10.49c)–(10.49d)

**LEP (Limited English Proficiency)**—see Education

**LGERS (Local Government Employees Retirement System)**—see Retirement

**Liability**

Civil parking, red light camera, speed enforcement camera liability rules.....	380
Skateboard and hazardous recreation operator duties .....	334

**License Plates**

Alpha Kappa Alpha Sorority plate .....	10
Alternative fuel vehicles license plate .....	424(2)
Be Active NC license plate.....	424(2)
Breast cancer awareness license plate .....	424(2)
Buffalo Soldiers license plate .....	424(2)
Celebrate Adoption license plate .....	424(2)
Confidential plates for Department of Defense agents.....	152(3)–(4)
Crystal Coast license plate.....	424(2)
Delta Sigma Theta Sorority license plate .....	424(2)
Distribution of license plate fees .....	424(4)–(6)
Fraternal Order of Police license plate .....	424(2)
License plate issues study.....	424(7)
Moped identification tag study .....	397(6)
Mothers Against Drunk Driving license plate.....	424(2)
NC Coastal Federation special plate.....	68
Nurses special registration plate to support nursing scholarships .....	11
Paramedics special plate .....	68
Plates not requiring "First in Flight" background.....	424(1)
POW/MIA license plate.....	424(2)
Private plates on public vehicles effective date change .....	284(6.5a)–(6.5b)
Red Hat Society license plate .....	424(2)
Retired Law Enforcement Officers license plate.....	424(2)
Special license plate fee increases .....	424(3)
Surveyor license plate.....	424(2)
Waived deadlines, fees, and penalties for deployed military personnel.....	300
Zeta Phi Beta Sorority license plate .....	424(2)

**Licenses and Permits**

Abortion services certification fees .....	284(34.7a)–(34.7b)
Ambulatory surgical facility licensure fees .....	284(34.5a)–(34.5b)
Annual to perpetual licensing of insurance companies .....	212(26)
Antique and specialty vehicle temporary license to sell .....	113(1)
Business License Information Office transfer to community college Small Business Centers plan.....	284(24.1a)–(24.1c)
Cardiac rehabilitation services licensure fee .....	284(34.6a)–(34.6b)
Cervid (deer) regulation.....	344
Child care center licensure fees .....	284(34.12a)–(34.12b)
Concealed handgun fee reduction for retired law enforcement .....	379
Construction prior to or expansion of existing air quality permit.....	428
Continuing care retirement communities licensure fees.....	284(34.9a)–(34.9b)

**Licenses and Permits—continued**

Drivers licenses —*see* that heading  
Enhanced penalties for Child Care Facilities Act  
violations ..... 192  
Environmental permit requirement on transportation  
projects ..... 284(29.6)  
Express review pilot program.....284(11.4Aa)–(11.4Ae)  
Family child care home fees ..... 284(10.39A)  
Group home licensing process..... 294(2)–(4)  
Historic structure rehabilitation certification and fees ..... 284(35A.1)–(35A.3)  
Hog lagoon moratorium exemption.....340(7)  
Home care agency licensure fees..... 284(34.4a)–(34.4b)  
Homeowners recovery fund permit fee increase ..... 372  
Hospital licensure fees ..... 284(34.2a)–(34.2b)  
Mental health, developmentally disabled, and  
substance abuse facilities licensure fees..... 284(34.8a)–(34.8b)  
Mental health licensure block grant funds..... 284(5.1a)  
Motor fuel distributor ..... 349(10.4)  
Nondischarge animal waste permit expiration date  
extensions ..... 28(1)  
Nursery dealer certification fees ..... 284(35.3b)  
Nursing home licensure fees..... 284(34.3a)–(34.3b)  
Out-of-state wine shipments ..... 402  
Pesticide fees ..... 284(35.4a)–(35.4f)  
Reciprocal concealed handgun permits ..... 199  
Records check for concealed handgun permits report..... 284(14.5a)  
Regulation of athlete agents..... 375  
Restaurant definition for ABC permits..... 135  
Riprap sills for wetland enhancement and shoreline  
protection permit rules..... 427(1)–(2)  
Self-service storage insurance sales license ..... 290(6)  
Sexually explicit conduct on licensed ABC premises ..... 382  
Swine farm moratorium extended ..... 266  
Vehicle auctions do not require motor vehicle dealer  
licenses ..... 265  
Western Core Sound shellfish cultivation leases..... 64  
Workers' compensation self-insurance licensing..... 212(24)–(25)

**Licensing and Certification**

Affidavit required of bail bondsmen ..... 148  
Child support requirements.....288(2)  
Chiropractic licensure examination changes ..... 155  
Cremation law improvements and strengthening ..... 420(2)  
Drug test for taxicab driver applicants ..... 65  
Emergency medical personnel credentialing ..... 392(2b)  
Evidence in suspending/revoking a medical license ..... 366(3)–(5)  
Fee increase for dentistry ..... 348(1)–(2)  
Foster care criminal records checks..... 304(4)  
Funeral services licensing modifications..... 420(7)  
General contractor exemption for locksmith requirement..... 350(10.1)

**Licensing and Certification**—continued

Health care facilities to verify licensure of nurses .....	146(6)
Interpreter and transliterator licensure effective date delay .....	56
Lateral, out-of-state, and initial certification of teachers .....	284(7.20c)–(7.20e)
Manufactured home dealer, manufacturer, salesperson, set-up contractor criminal history check for licensure .....	400(8)–(12)
Out-of-state physicians may practice at therapeutic recreation camps .....	109
Private personnel service .....	308(9)
Real estate licensure revisions .....	361
Reinstatement of license for engineers and surveyors .....	347(3)
Reinstatement of retired nurse .....	29
Respiratory care .....	384(2)–(7)
Speech/language pathologists and audiologists fees .....	222
Teacher certification study .....	284(7.39)
Teaching certificate immediate revocation for certain crimes .....	408
Temporary psychology license fee .....	368(4)
Towing exemption for locksmith requirement .....	350(10.1)
Unlawful practice of pharmacy .....	284(10.8D)

**Liens**

Accounting of funds distribution from personal injury recovery .....	309
Child support .....	288(4)
Legal deadlines falling on a holiday clarification .....	337

**Lieutenant Governor, Office of**

Appropriations .....	284(2.1)
Lt. Governor's Salary .....	284(30.1b)

**Limited English Proficiency (LEP)**—*see* Education

**Lincoln County**—TANF electing county .....

284(10.49c)–(10.49d)

**Literacy**—*see* Education

**Livestock and Poultry**

Animal waste — <i>see</i> Agriculture	
Contagious animal disease State Veterinarian provisions sunset extension .....	6
Small horse trailer weigh station exemption .....	338
Swine farm moratorium extended .....	266

**Loans**

Subordination agreement requirements clarification .....	219
Usury exemption expansion .....	401

**Local Government** (*see also* particular city; particular county; Tribal Government)

Allocation of sales and use tax .....	416(27a)–(27b), (28)
Civil parking, red light camera, speed enforcement camera liability rules .....	380
Collection of unpaid water and sewer service fees in certain cities and counties .....	270

**Local Government—continued**

Community revitalization grant distribution program.....	284(5.2h)
Community water system water supply plans.....	387(1)
Conform to streamlined sales and use tax agreement.....	284(45.1)–(45.12)
Conveyance of property by a redevelopment commission.....	66
Council of Government funds.....	284(12.2a)–(12.2e)
Criminal records checks for fire departments.....	182
Education, Boards of (Local) — <i>see</i> that heading	
Elections, Boards of (Local) — <i>see</i> that heading	
Electronic notification of public hearings for certain cities.....	161
Enhanced benefits for local government retirees.....	319
Health, Departments of (County) — <i>see</i> that heading	
Hold harmless.....	284(37.1); 349(6)
Interest rate swap agreements.....	388(4)
Internet-based property tax certification procedure alternative.....	399
Joint local government development project financing agreements.....	417
Juvenile crime prevention council grants certification.....	284(15.2b)
Lake Lure Marine Commission created.....	332
Local and metropolitan planning organization funds.....	284(29.14a)–(29.14c)
Local confinement facilities to provide health information of transferred prisoners.....	392(1)
Nonprofit organizations capacity for CDBG eligible activities.....	284(5.2e)
Outdoor advertising amortization ordinances.....	432, (2)
Program enhanced standards.....	284(10.44a)–(10.44c)
Property tax rate publication in revaluation years.....	264
Recall election not a referendum.....	278(5)
Regional inter-agency coordinating councils for children from birth to five with disabilities and their families created.....	391
Revenue bond modifications.....	388(1)–(3)
Sales and use tax refund for school board cooperatives.....	431(2)
Sales tax distribution based on taxpayer data.....	349(5)
Sanitary district boards compensation.....	185
Self-funded risk program deemed purchase of insurance for waiving immunity.....	175
Setoff debt collection for sewer and water authorities.....	333
Social Services, Departments of (County) — <i>see</i> that heading	
Statewide trauma system peer review committees.....	392(2c)

**Local Government Commission**

Economic development project financing constitutional change.....	403
Interest rate swap agreements.....	388(4)
Revenue bond modifications.....	388(1)–(3)

**Local Government Employees Retirement System**

**(LGERS)—*see* Retirement**

<b>Local School Administrative Units</b> — <i>see</i>	
Education, Boards of (Local)	
<b>Locksmith Licensing Board</b>	
May hire attorney.....	350(4)
Apprentices.....	350(1), (3), (6)–(9), (11)–(12)
Criminal record checks.....	350(4)–(5), (11)–(12)
General contractor exemption.....	350(10.1)
Locksmith services definition.....	350(2)
<b>Locust, City of</b> —voluntary satellite annexation.....	30
<b>Lumberton, City of</b>	
Building construction/renovation for industries	
contract exemption.....	118
Deannexation.....	271(2)
Demolition of unsafe residential buildings in	
community development areas.....	42
Firemen's relief fund and supplementary pension	
fund changes.....	324

## M

<b>Macon County</b>	
Franklin, Town of — <i>see</i> that heading	
Highlands, Town of — <i>see</i> that heading	
TANF electing county.....	284(10.49c)–(10.49d)
<b>Madison County</b> —tax collector appointed office.....	123
<b>Managed Care</b> — <i>see</i> Insurance	
<b>Manteo, Town of</b> —Manteo (Shallowbag) Bay	
channel maintenance.....	284(31.2a)
<b>Manufactured Homes</b>	
Contiguous premises definition relating to	
manufactured home parks.....	173
Dealer, manufacturer, salesperson, set-up contractor	
criminal history check for licensure.....	400(8)–(12)
Manufactured home community conversion.....	400(5)
Modular homes minimum standards.....	400(17)
Pricing display.....	400(6)
Purchase agreement cancellation.....	400(7)
Sales and use tax.....	400(13)–(16)
Surrender of manufactured home title.....	400(1)–(4)
Water conservation promotion.....	173
<b>Manufactured Housing Board</b> —dealer, manufacturer, salesperson,	
set-up contractor criminal history check for licensure.....	400(8)–(12)
<b>Manufacturing</b> — <i>see</i> Commerce	
<b>Marine Fisheries Commission</b> —Fisheries Director	
proclamation authority.....	154

## **Marriage and Family**

Appointment of guardian for juvenile .....	140(9a)–(9d)
Categorically needy family enrollment in Medicaid .....	284(10.19p)
Child care eligibility for noncitizen families .....	284(10.35h)
Conform child tax credit to federal credit .....	284(39B.2)–(39B.3)
Divorce — <i>see</i> that heading	
Domestic violence — <i>see</i> that heading	
Family health and disability not disqualifying for unemployment .....	220(1)
Intensive Family Preservation Services Program funding and performance enhancement .....	284(10.48a)–(10.48e)
Marriage by District Court judges .....	4
Notification of parent for unexcused absence .....	304(3)
Parental rights termination for inability to care and lacking alternative child care .....	140(3)–(4)
Protective services entry in to private home .....	304(4.1)
Service of summons change for child abuse, neglect, dependency cases .....	304(1)
Surviving spouse elective share clarification .....	296
TANF (Temporary Assistance to Needy Families) — <i>see</i> Welfare	
Temporary unemployment disqualification period for moving with spouse deceased .....	220(6)
Termination of parental rights hearing time limit .....	304(2)
<b>Martin County</b> —magistrate authorization adjustment .....	284(13.8)
<b>Massage and Bodywork Therapy, Board of</b> —civil penalties and disciplinary costs .....	348(3)–(4)
<b>Matthews, Town of</b> —annexation .....	273(1a)–(1c)
<b>Mayors</b> — <i>see</i> particular city	
<b>McDowell County</b> —TANF electing county .....	284(10.49c)–(10.49d)
<b>Mecklenburg County</b> Charlotte, City of — <i>see</i> that heading	
Convey property at private sale .....	49
Huntersville, Town of — <i>see</i> that heading	
Law enforcement emergency pension fund .....	323
Little Sugar Creek restoration .....	284(31.2a)
Matthews, Town of — <i>see</i> that heading	
Mentor teacher pilot program .....	284(7.30c)
<b>Media</b> —definition of employee newspaper/magazine sales clarification .....	156
<b>Mediation and Arbitration</b> Arbitration award conformation under Family Law Arbitration Act .....	61
Cases mediated report .....	284(13.15c)
Collaborative law procedures for divorce .....	371
Dispute resolution fee clarification .....	284(13.13)
Dispute settlement centers study .....	284(13.15a)–(13.15b)
Fees .....	284(36A.1)
Prelitigation mediation of insurance claims .....	307(2)
Revised Uniform Arbitration Act enacted .....	345



**Medicaid**

Allocation of nonfederal cost .....	284(10.19b)
Assessment program for skilled nursing facilities.....	284(10.28a)–(10.28c)
Categorically needy family enrollment .....	284(10.19p)
Copayment for services .....	284(10.19c)
Cost containment .....	284(10.19l), (10.23)
County Medicaid cost share.....	284(10.22a)–(10.22b)
Coverage for those 21 and under .....	284(10.19n)
Dental coverage limits .....	284(10.19g)
Disproportionate share receipt disposition .....	284(10.21a)–(10.21b)
Eligibility classification updates .....	284(10.19m)
Expenditures .....	284(10.19a)
Family planning services coverage.....	284(10.19u)
Federal Medicaid funds increase .....	284(10.24a)–(10.24b)
Generic drugs.....	284(10.19h)
Hospital payments evaluation.....	284(10.29C)
ICF/MR work incentive allowances .....	284(10.19f)
Incentives for fraud recovery.....	284(10.19q)
Income eligibility standards.....	284(10.19d)–(10.19e)
Income property equity value assessment .....	284(10.19y)
Information system enhancement funding .....	284(10.19r)
Medical coverage policy amending and adoption .....	284(10.19bb)
Medicare enrollment required.....	284(10.27)
No prior authorization for certain drugs .....	284(10.19i)
No services change without review .....	284(10.19z)
Pregnant women and children coverage.....	284(10.19o)
Prior authorization exemption for certain drugs under Medicaid .....	179
Program study.....	284(6.14Aa), (6.14Ac)
Provider reimbursement rate setting.....	284(10.19v)
Reserve fund transfer.....	284(10.20)
Service limitations exceptions .....	284(10.19j)
Services for students with disabilities collaboration .....	284(10.29A)
Temporary rules authorized.....	284(10.19s)
Therapeutic mental health services coding.....	284(10.19w)
Transfer of assets policy on real property .....	284(10.19x)
Transfer of property to qualify .....	284(10.26)
Trust Fund replenishment.....	283(1)
Vision care standards for children review .....	284(10.19aa)
Volume purchase plans and single source procurement.....	284(10.19k)

**Medicaid Reform, Blue Ribbon Commission on**

Appropriations .....	284(2.1)
Created .....	284(6.14Aa)–(6.14Ac)

**Medical Board**

Appointments and membership .....	366(1)
Evidence in suspending/revoking a license .....	366(3)–(5)
Integrative medicine defined .....	366(2)

**Medical Care Commission**

Cervical cancer screening coverage..... 186  
EMS systems, EMS educational institutions, and specialty  
care transport program standards .....392(2d)  
Temporary rule-making authority extended..... 284(10.8C)

**Mental Health**

Area mental health administrative costs ..... 284(10.17a)–(10.17c)  
Commitment requirements temporary waiver..... 178  
Community-based services  
Children block grant funds..... 284(5.1a)  
Funding.....284(10.9)  
Severe and persistently mentally ill adults block  
grant funds..... 284(5.1a)  
Comprehensive treatment services program for children  
block grant funds ..... 284(5.1a)  
Comprehensive treatment services program report ..... 284(10.13)  
Confidential information disclosure and sharing..... 313  
Consumer advocacy program funding contingency ..... 284(10.10)  
County appeal in juvenile "pay order" cases ..... 171  
Developmentally disabled waiting list for services block  
grant funds ..... 284(5.1a)  
Financing of new psychiatric hospital at Butner ..... 314  
Group home tracking system..... 284(10.18A)  
Involuntary sterilization laws repealed..... 13  
Licensed psychological associate may receive payment  
from a health plan..... 368(1)–(3)  
Marriage and family therapists  
Included in insurance 'freedom of choice'..... 117(1)–(2)  
Under professional corporations act..... 117(3)–(4)  
Mental health, developmentally disabled, and substance  
abuse facilities licensure fees ..... 284(34.8a)–(34.8b)  
Mental health licensure block grant funds..... 284(5.1a)  
Mental retardation centers  
Downsizing..... 284(10.14a)–(10.14d)  
Transition plan..... 284(10.15a)–(10.15c)  
Multiply diagnosed adults services..... 284(10.16a)–(10.16d)  
No prior authorization for certain drugs in Medicaid..... 284(10.19i)  
Private agency uniform cost finding requirement ..... 284(10.18a)–(10.18b)  
Rebirthing technique prohibited ..... 205  
Regional inter-agency coordinating councils for children  
from birth to five with disabilities and their families created ..... 391  
State mental hospitals transition planning ..... 284(10.12a)–(10.12d)  
Therapeutic mental health services coding for Medicaid..... 284(10.19w)

**Mental Health, Developmental Disabilities, and Substance**

**Abuse Services, Commission for**

Drug detection dog training controlled substances  
registration requirements..... 398

<b>Mental Health, Developmental Disabilities, and Substance Abuse Services, Joint Legislative Oversight Committee on</b>	
Certain reports required to be made to Committee.....	58
Substance abuse services assessing agency study .....	396(2)
<b>Mental Retardation</b> — <i>see</i> Disabled Persons; Mental Health	
<b>Military Bases</b> — <i>see</i> Armed Forces	
<b>Mills River, Town of</b> —incorporation.....	242
<b>Minorities</b> ( <i>see also</i> Discrimination; Women)	
Buffalo Soldiers license plate .....	424(2)
Involuntary sterilization laws repealed.....	13
Lumbee Tribe clarification .....	54(1)
Meherrin Tribe recognition.....	54(2)
Occaneechi Band of the Saponi recognition.....	54(2)
Office of Minority Health block grant funds.....	284(5.1a)
Sappony designation.....	87
<b>Minority Economic Development, Institute for</b>	
Reports — <i>see</i> that heading	
<b>Minority Support Center</b>	
Reports — <i>see</i> that heading	
<b>Minors</b>	
Academically gifted children funds.....	284(7.14)
Administration of medication to a child in a child care facility without authorization prohibited.....	406
Adoption — <i>see</i> that heading	
After-school services for at-risk children block grant funds .....	284(5.1a), (5.1m)
Allowing juveniles to escape criminal penalties .....	297(1)
Artistic, creative, and athletic contracts.....	207
Assault in the presence of a minor.....	409
Boys and Girls Clubs block grant.....	284(5.1a), (5.1u)
Child abuse — <i>see</i> that heading	
Child Alert Notification (AMBER Alert) system.....	191
Child caring agencies block grant funds.....	284(5.1a)
Child Fatality Review Team may compel records disclosure.....	304(6)
Child medical evaluation program block grant funds .....	284(5.1a)
Child support — <i>see</i> that heading	
Child welfare	
System pilots .....	284(10.56a)–(10.56d)
Workers block grant funds .....	284(5.1a), (5.1n)
Childhood injury prevention block grant funds.....	284(5.1a)
Children with disabilities education funds .....	284(7.13)
Children's museums — <i>see</i> Museums	
Community-based services to children block grant funds .....	284(5.1a)
Compliance with audit report on youth development and detention centers .....	284(15.9)
Comprehensive treatment services program for children block grant funds.....	284(5.1o)

**Minors**—continued

Conform child tax credit to federal credit .....	284(39B.2)–(39B.3)
Disagreement of residency of child by social services departments.....	304(7)
Early Childhood Education and Development Initiatives — <i>see</i> Health and Human Services, Department of (DHHS)	
Family Focus block grant funds .....	284(5.1a)
Foster Care — <i>see</i> that heading	
Group Homes — <i>see</i> that heading	
Health Choice Program.....	284(10.29a)–(10.29b)
Healthy mothers/healthy children block grants .....	284(5.1a)
Immunization program funding.....	284(10.30a)–(10.30b)
Intensive Family Preservation Services Program funding and performance enhancement .....	284(10.48a)–(10.48e)
Juvenile accountability incentive block grant matching funds.....	284(15.4)
Juvenile Code — <i>see</i> that heading	
Juvenile Justice Information System .....	284(17.2a)–(17.2b)
Lead poisoning prevention .....	150
Maternal and child health hotline block grant funds .....	284(5.1a)
Medicaid	
Coverage for those 21 and under .....	284(10.19n)
Services for students with disabilities collaboration.....	284(10.29A)
Vision care standards for children review.....	284(10.19aa)
Medical child care pilot funds .....	284(5.1g)
More-At-Four Program — <i>see</i> Health and Human Services, Department of (DHHS)	
Newborns	
Hearing screening program report .....	284(10.32)
Screening program follow-up testing.....	284(5.1f)
Notification of parent for unexcused absence .....	304(3)
Photographing of juvenile detainees.....	297(2)
Pregnant women and children coverage under Medicaid.....	284(10.19o)
Protective services entry in to private home.....	304(4.1)
Residential substance abuse services for women with children.....	284(5.1a)
Safe sleep policy to prevent SIDS for child care facilities .....	407(1)
Schools for the deaf attendance eligibility .....	253
Services to children with special health care needs block grant funds .....	284(5.1a)
Substance abuse services to children and adolescents block grant funds .....	284(5.1a)
Support Our Students	
Block grant funds .....	284(5.1a)
Expansion .....	284(5.1k)
TANF block grant transfer for children's services .....	284(5.1a)
Tarheel Challenge Program annual evaluation.....	284(17.3)
Termination of parental rights hearing time limit .....	304(2)
Tobacco use prohibition in public school buildings.....	421
WCH-Teen Pregnancy Program block grant funds .....	284(5.1a)
Youth development programs block grant funds .....	284(5.1a)

<b>Misenheimer, Village of</b> —incorporation .....	268
<b>Mitchell County</b>	
Mayland Community College — <i>see</i> Community Colleges	
Spruce Pine, Town of — <i>see</i> that heading	
<b>Monroe, City of</b> —overgrown vegetation violators annual notice.....	77
<b>Montgomery County</b>	
Divide Superior Court District 19B.....	284(13.14a)–(13.14f)
Troy, Town of — <i>see</i> that heading	
<b>Moore County</b>	
Acceptance of electronic signatures and records by Register of Deeds .....	326(2.1)
Divide Superior Court District 19B.....	284(13.14a)–(13.14f)
Eagle Springs, Town of — <i>see</i> that heading	
Pinebluff, Town of — <i>see</i> that heading	
Pinehurst, Village of — <i>see</i> that heading	
<b>Mopeds</b> — <i>see</i> Motor Vehicles	
<b>Moratoriums</b>	
Annexation moratorium in Cabarrus County for certain municipalities .....	326(1)
Hog lagoon moratorium exemption.....	340(7)
Outdoor advertising amortization ordinances moratorium.....	432
Swine farm moratorium extended .....	266
<b>More-At-Four Pre-K Task Force</b>	
Created .....	284(10.40b)
Reports — <i>see</i> that heading	
<b>More-At-Four Program</b> — <i>see</i> Health and Human Services, Department of (DHHS)	
<b>Morehead City, City of</b>	
Harbor maintenance.....	284(31.2a)
Harbor nourishment.....	284(31.2a)
<b>Mortgages</b> — <i>see</i> Loans	
<b>Mortuary Science, Board of</b> —name change to North Carolina	
Board of Funeral Service .....	420(1)
<b>Motor Vehicles</b>	
Agricultural vehicle escort and driver training program implementation .....	383(7)
Antique and specialty vehicle temporary license to sell .....	113(1)
Civil parking, red light camera, speed enforcement camera liability rules.....	380
Defined motor vehicle accident damage amount increase .....	137
Driving While Impaired (DWI) — <i>see</i> that heading	
Durham vehicle tax.....	329(1), (3)
DWI (Driving While Impaired) — <i>see</i> Driving While Impaired (DWI)	
Excess weight/oversize fees funds use .....	284(29.5)
Financial disclosure of insurance company interest in repair facility .....	395(1)
Golf cart and utility vehicle regulation in Beech Mountain .....	124

<b>Motor Vehicles—continued</b>	
Leaving the scene of an accident penalties.....	394
License Plates — <i>see</i> that heading	
Mechanical breakdown service agreement companies subject to requirements of service agreement companies.....	290(4)
Moped identification tag study .....	397(6)
Motor Fleet Management Division best management practices .....	177
Motor vehicle and service agreement companies document submission requirements .....	290(2)
Motor vehicle dealer	
Franchise clarification .....	113
Trailer definition exclusion .....	254
Nonfunctioning speedometer an included lesser offense in speeding violations .....	110
Nonoriginal parts use disclosure in repairs by insurance company .....	395(2)–(3)
Parking ordinance adoption and enforcement for Salisbury .....	130
Pretowing notices in Asheville .....	165
Removal of wrecked, abandoned, disabled vehicles, and property from controlled-access highways.....	310
Retailer leasing motor vehicles may pay gross receipts tax .....	5
Small horse trailer weigh station exemption .....	338
Total loss claim and damage disclosure .....	258
Towing	
Exemption for locksmith requirement .....	350(10.1)
Notification requirements.....	336
Uninsured motorist coverage.....	311
Vehicle auctions do not require motor vehicle dealer licenses .....	265
Wheel locks authorized for certain cities .....	240; 328(4)
<b>Motor Vehicles, Division of</b>	
Commissioner's salary .....	284(30.3)
Fees .....	284(36.1)–(36.2)
Leaving the scene of an accident penalties.....	394
License plate issues study .....	424(7)
License Plates — <i>see</i> that heading	
Prevent duplicate names on jury lists .....	226(7c)–(7d)
Technical corrections and conforming changes .....	349(4)
<b>Motorcycles—<i>see</i> Motor Vehicles</b>	
<b>Mount Airy, City of</b>	
Additional occupancy tax .....	281(12)
Annexation.....	281(11)
Charter consolidation.....	281(1)–(10)
<b>Moving Ahead Transportation Initiative.....</b>	<b>383</b>
<b>Municipal Incorporation</b>	
Cashiers.....	75(2)–(8)
Misenheimer .....	268
Sunset Harbor .....	317

**Municipalities** (*see also* Local Government; particular city)

Acquisition of property for future utilities lines by certain cities.....	74
Annexation moratorium in Cabarrus County for certain municipalities .....	326(1)
Bad debt charge off.....	349(11)
Collection of unpaid water and sewer service fees in certain cities.....	270
Community water system water supply plans .....	387(1)
Demolition of unsafe residential buildings in community development areas of certain cities .....	23
Duplicate abstract disposition in municipal elections .....	278(10i)
Economic development project financing constitutional change.....	403
Electronic notification of public hearings for certain cities .....	161
Expenditure of funds on roads outside corporate limits for certain cities.....	132
Honor retiring or deceased firefighters with presentation of fire helmet.....	145
Interest rate swap agreements.....	388(4)
Local and metropolitan planning organization funds.....	284(29.14a)–(29.14c)
Overgrown vegetation violators annual notice for certain cities.....	77; 80
Revenue bond modifications .....	388(1)–(3)
Satellite annexation by cities in Union County .....	321
Self-funded risk program deemed purchase of insurance for waiving immunity.....	175
Sunset on secondary supplier service to municipalities removed .....	24
Tree clear-cutting limits and tree protection prior to development in certain cities.....	128; 246
Wheel locks authorized for certain cities .....	240; 328(4)
<b>Museum of Art</b> —Director's salary .....	284(30.3)
<b>Museums</b>	
Aurora Fossil Museum grassroots science program grant-in-aid .....	284(11.1a)
Cape Fear Museum grassroots science program grant-in-aid .....	284(11.1a)
Carolina Raptor Center grassroots science program grant-in-aid .....	284(11.1b)
Catawba Science Center grassroots science program grant-in-aid .....	284(11.1a)
Colburn Gem and Mineral Museum grassroots science program grant-in-aid.....	284(11.1a)
Discovery Place grassroots science program grant-in-aid.....	284(11.1a)
Fascinate-U Children's Museum grassroots science program grant-in-aid.....	284(11.1b)
Grassroots science program.....	284(11.1a)–(11.1c)

**Museums—continued**

Harris Gallery - Granville County Museum grassroots science program grant-in-aid.....	284(11.1a)
Health Adventure Museum grassroots science program grant-in-aid.....	284(11.1a)
Highlands Nature Center grassroots science program grant-in-aid.....	284(11.1b)
Imagination Station grassroots science program grant-in-aid .....	284(11.1a)
Iredell County Children's Museum grassroots science program grant-in-aid.....	284(11.1a)
KidSenses grassroots science program grant-in-aid.....	284(11.1b)
Museum of Coastal Carolina grassroots science program grant-in-aid .....	284(11.1a)
Museum of Life and Science grassroots science program grant-in-aid .....	284(11.1a)
Natural Science Center of Greensboro grassroots science program grant-in-aid.....	284(11.1a)
Pack Place Education, Arts and Science Center grassroots science program grant-in-aid.....	284(11.1a)
Rocky Mount Children's Museum grassroots science program grant-in-aid.....	284(11.1a)
Schiele Museum of Natural History grassroots science program grant-in-aid.....	284(11.1a)
Sci Works Science Center grassroots science program grant-in-aid .....	284(11.1a)
State Aviation Hall of Fame official location at Asheboro airport .....	363
State Museum of Aviation official location at Wilmington airport .....	363
Western North Carolina Nature Center grassroots science program grant-in-aid.....	284(11.1a)
Wilmington Children's Museum grassroots science program grant-in-aid .....	284(11.1b)

**N**

<b>Nags Head, Town of</b> —Historic Preservation Commission membership.....	46
<b>Narcotics</b> ( <i>see also</i> Pharmaceuticals; Substance Abuse; Testing)	
Buprenorphine dispenser registration.....	335
Controlled substance analogues.....	249
Drug detection dog training registration requirements.....	398
Drug law enforcement grants review.....	284(17.4a)–(17.4b)
Drug test for taxicab driver applicants .....	65
Impaired veterinary personnel program agreements .....	139
<b>Nash County</b>	
Evaluate water quality and endangered species protection in Swift Creek.....	433(3)



<b>Nash County—continued</b>	
Nash-Rocky Mount Board of Education boundary with Edgecombe Board of Education.....	346(4)
Rocky Mount, City of — <i>see</i> that heading	
Swift Creek/Sandy Creek reclassification .....	433(1)–(2), (4)
<b>National Crime Prevention and Privacy Compact</b>	
<b>Council—created</b> .....	214(2)
<b>Negotiable Instruments</b>	
Worthless check funds use.....	284(13.2)
Worthless check program available statewide.....	377
<b>Neuse River—River Basin feasibility study</b> .....	284(31.2a)
<b>New Hanover County</b>	
Acceptance of electronic signatures and records by Register of Deeds .....	326(2.1)
Carolina Beach marina and fee.....	284(35.1Aa)–(35.1Ad)
Carolina Beach, Town of — <i>see</i> that heading	
Fort Fisher off-road access fee .....	284(35.1b)
Kure Beach, Town of — <i>see</i> that heading	
Occupancy tax .....	166
Wilmington, City of — <i>see</i> that heading	
<b>News Media—see</b> Media	
<b>Newspapers—see</b> Media	
<b>Newton, City of—traffic control cameras</b> .....	86
<b>No Child Left Behind Act of 2001</b> .....	419
<b>North Carolina Board for Licensing General Contractors—see</b>	
General Contractors, North Carolina Licensing Board for	
<b>North Carolina School of Science and Mathematics, Board of Trustees—see</b> University of North Carolina	
<b>Northampton County</b>	
Halifax Airport Authority renamed .....	318(1)–(2)
Meherrin Tribe recognition.....	54(2)
<b>Northeastern North Carolina Regional Economic Development</b>	
<b>Commission—see</b> Regional Economic Development	
Commission, Northeastern North Carolina	
<b>Norwood, Town of—ABC proceeds distribution</b> .....	121(1)
<b>Notary Public</b>	
Acceptance of electronic signatures and records by Register of Deeds in certain counties .....	326(2.1)
Anatomical gift instruments notary exemption .....	70
Electronic notarization study .....	233(4)
Validation of certain notarial acts.....	38
<b>Notification</b>	
Chronic refuse and debris violators annual notice for Durham .....	133
Construction prior to or expansion of existing air quality permit.....	428
Copy of petition and notice to guardian ad litem .....	140(6)
Dissemination of child care facilities law information to parents.....	196

**Notification—continued**

Electronic notification of public hearings for certain cities .....	161
Electronic public notice in lieu of publication for Cabarrus County .....	81
Farm machinery agreement termination notification .....	195
Financial interest disclosure in motor vehicle repair facility by insurance company .....	395(1)
Garbage and trash ordinance chronic violator notification for Winston-Salem.....	120
Managed Care Patient Assistance Program availability.....	105
Nonoriginal parts use disclosure in motor vehicle repairs by insurance company .....	395(2)–(3)
Overgrown vegetation violators annual notice for certain cities.....	77; 80
Parent for unexcused absence.....	304(3)
Pretowing notices in Asheville .....	165
Pricing display on manufactured homes.....	400(6)
Property tax rate publication in revaluation years .....	264
Service of summons change for child abuse, neglect, dependency cases.....	304(1)
Towing notification requirements .....	336
Voter education and information.....	226(8)
Waynesville mailed rezoning notice exemption.....	3

**Nursing**

Health care facilities to verify licensure of nurses .....	146(6)
Nurse testimonial privilege.....	342
Nurses license plate to support nursing scholarships .....	11
Reinstatement of retired nurse.....	29
School nurse service standards review .....	284(7.32)

**Nursing, Board of**

Appointments and membership .....	146(1)–(2), (7)
Reinstatement of retired nurse.....	29
Technical corrections and conforming changes .....	146(3)–(5)

**Nursing Homes**

Adult care homes	
Fees.....	284(34.1a)–(34.1b)
Model for community-based services .....	284(10.43a)–(10.43b)
Certain reports required to be made to Legislative Oversight Committee on MHDDSAS.....	58(1)–(2)
Continuing care retirement communities licensure fees.....	284(34.9a)–(34.9b)
County Medicaid cost share.....	284(10.22a)–(10.22b)
Health care facility construction projects review fee .....	284(34.11a)–(34.11b)
Long-term care facilities	
Community service coordination pilot project.....	284(10.8Fa)–(10.8Fb)
Criminal record checks effective date.....	284(10.8E)
Medicaid assessment program for skilled nursing facilities .....	284(10.28a)–(10.28c)
Medication error reduction steps .....	393

**Nursing Homes**—continued

Medication management advisory committees required.....	393
Nursing home licensure fees.....	284(34.3a)–(34.3b)
State/County Special Assistance .....	284(10.52a)–(10.52f)
Technical corrections and conforming changes .....	193

**Nutrition**

High-calcium foods and beverages contract preference .....	257
Purchase of reconstituted/recombined milk by State prohibited.....	367

**O**

**Oak Island, Town of**

Eminent domain authority granted for beach erosion, flood control, hurricane protection, and beach access .....	282
Mayor and Town Council changes .....	84

**Ocean Isle Beach, Town of**

Beach renourishment .....	284(31.2a)
Eminent domain authority granted for beach erosion, flood control, hurricane protection, and beach access .....	282
Museum of Coastal Carolina grassroots science program grant-in-aid .....	284(11.1a)

**Optometry**—Medicaid vision care standards for children

review.....	284(10.19aa)
-------------	--------------

**Orange County**

Carrboro, Town of — <i>see</i> that heading	
Chapel Hill, Town of — <i>see</i> that heading	
Occaneechi Band of the Saponi recognition.....	54(2)
Urban loop definition change .....	284(29.11a)–(29.11b)

**Organ Donation**—*see* Health Services

**OSHA**—*see* Labor, Department of; Safety

**Osteoporosis Prevention Task Force**—

block grant funds.....	284(5.1a)
------------------------	-----------

**Oxford, Town of**—Harris Gallery - Granville County

Museum grassroots science program grant-in-aid .....	284(11.1a)
--	------------

**P**

**PACs (Political Action Committees)**—reporting

requirements.....	274
-------------------	-----

**Pamlico County**—private prison acquisition capital

financing .....	284(46A.1a)–(46A.1e)
-----------------	----------------------

**Pamlico River**

Evaluate water quality and endangered species protection in Swift Creek.....	433(3)
Swift Creek/Sandy Creek reclassification .....	433(1)–(2), (4)

**Parental Rights**—*see* Juvenile Code; Marriage and Family

**Parks and Recreation Areas**

Add and remove certain lands from the State Nature and Historic Preserve..... 234  
Amusement device safety enhancement..... 170  
Bikeways and trails funding authority clarification ..... 256  
Carolina Beach marina and fee..... 284(35.1Aa)–(35.1Ad)  
Fees ..... 284(35.1a)–(35.1d)  
Fort Fisher off-road access fee ..... 284(35.1b)  
Haw River State Park added to parks system ..... 108  
Mayo River State Park added to parks system ..... 106  
Skateboard and hazardous recreation operator duties ..... 334

**Parole Commission**—*see* Post-Release Supervision and Parole Commission

**Partnership for Children**

Allocation of funds for Smart Start ..... 284(10.38e)  
Audit penalty for Smart Start..... 284(10.38j)  
Competitive bidding practices for Smart Start ..... 284(10.38b)  
Duplication of Smart Start services study ..... 284(10.38i)  
Federal funds allocations for Smart Start ..... 284(10.38h)  
Local partnerships  
    Advisory board membership ..... 284(10.38m)  
    Board membership policy ..... 284(10.38l)  
    Plan approval for Smart Start ..... 284(10.38f)  
    Reporting guidelines ..... 284(10.38n)  
Matching fund requirement for Smart Start ..... 284(10.38c)  
Quality child care initiatives plan for Smart Start ..... 284(10.38i)  
Reports —*see* that heading

**Partnership for the Sounds**

Reports —*see* that heading

**Pasquotank County**

Elizabeth City, City of —*see* that heading

**Peachland, Town of**—charter consolidation ..... 328(2a)–(2i)

**Pembroke, Town of**

UNC-Pembroke —*see* University of North Carolina

**Pender County**

Sales tax technical correction ..... 416(14a)–(14b)  
Subdivision definition..... 245  
Surf City/North Topsail beach protection study ..... 284(31.2a)

**Person County**—Sappony designation..... 87

**Pest Control and Management**—structural pest control

training facility capital financing ..... 284(46A.3)

**Pesticides**—*see* Hazardous Substances

**Pharmaceuticals**

Administration of medication to a child in a child care facility  
    without authorization prohibited ..... 406  
Civil penalty for violation of food, drug, and cosmetic act ..... 389  
Economic development and training district creation ..... 418  
Generic drugs in Medicaid..... 284(10.19h)  
Inmate costs ..... 284(16.6a)–(16.6c)

<b>Pharmaceuticals—continued</b>	
Medication error reduction steps for nursing homes .....	393
Medication management advisory committees required for nursing homes .....	393
No prior authorization for certain drugs in Medicaid.....	284(10.19i)
Prior authorization exemption for certain drugs under Medicaid .....	179
Senior cares program administration .....	284(10.5)
<b>Pharmacists—unlawful practice of pharmacy.....</b>	<b>284(10.8D)</b>
<b>Photography</b>	
Civil parking, red light camera, speed enforcement camera liability rules .....	380
Photographing of juvenile detainees.....	297(2)
Secret peeping statute modification.....	303
Traffic control cameras — <i>see</i> Law Enforcement	
<b>Physicians</b>	
Buprenorphine dispensor registration.....	335
Medical certificates from out-of-state physicians for certain drivers license applicants.....	14
Medical liability coverage for certain State health care employees .....	284(10.7a)–(10.7c)
Out-of-state physicians may practice at therapeutic recreation camps .....	109
Verification of licensure of nurses.....	146(6)
<b>Piedmont Triad Partnership</b>	
Allocations .....	284(12.7a)–(12.7b), (12.8d)–(12.8e)
Reports — <i>see</i> that heading	
<b>Pilot Programs</b>	
Animal waste management system inspection pilot program extended .....	340(6.1)–(6.2)
Assignment of civil cases pilot project.....	284(13.12a)–(13.12b)
Child custody orders pilot program .....	381(2a)–(2c)
Child welfare system pilots .....	284(10.56a)–(10.56d)
Express review pilot program.....	284(11.4Aa)–(11.4Ae)
Financial literacy pilot program .....	284(7.35)
ITS infrastructure maintenance agreement pilot project .....	284(21.2a)–(21.2b)
Local boards of education E-Procurement system use.....	147
Local health director pilot.....	284(10.33C)
Long-term care community service coordination pilot project.....	284(10.8Fa)–(10.8Fb)
Medical child care pilot funds .....	284(5.1g)
Mentor teacher pilot program .....	284(7.30c)
Productivity pilot programs in Transportation Department .....	284(29.3)
School accountability pilot program terminated .....	284(7.16c)
Traffic control camera pilot program for Charlotte.....	280(1), (4)
Work over welfare demonstration program in Cabarrus County .....	188

<b>Pine Level, Town of</b> —voluntary satellite annexation .....	30
<b>Pinebluff, Town of</b> —convey property at private sale .....	48
<b>Pinehurst, Village of</b> —dam repair assessments period extended .....	259(2)
<b>Planning and Zoning</b>	
Agricultural land exempt from zoning in Wentworth .....	330
Amend Greensboro territorial boundary with Piedmont Triad International Airport Administration .....	202
Annexation — <i>see</i> that heading	
Conditional zoning for Wilmington .....	162
Demolition of unsafe residential buildings in community development areas of certain cities .....	23; 42
Economic development and training district creation .....	418
Eminent Domain — <i>see</i> that heading	
Extraterritorial jurisdiction extension into Currituck County by entity outside of county prohibited .....	27
Henderson weeded lot violation notification .....	40
Overgrown vegetation violators annual notice for certain cities .....	77; 80
Protest petition requirement for Durham County .....	83
Removal of territory from research and production district .....	187
Repair of residential property not meeting code in Roanoke Rapids .....	320(2)
Special use permit approval postponement on school sites in Chapel Hill .....	237(2)
Subdivision definition for Chowan County .....	79
Subdivision definition for Pender County .....	245
Tree clear-cutting limits and tree protection prior to development in certain counties and municipalities .....	128
Tree clear-cutting limits and tree protection prior to development in certain cities .....	246
Waynesville mailed notice exemption .....	3
<b>Political Action Committees (PACs)</b> — <i>see</i> PACs (Political Action Committees)	
<b>Political Parties</b>	
Nomination of presidential candidates .....	278(9a)–(9b)
Surry sheriff vacancy .....	39
<b>Polk County</b> —acquisition of property by Board of Education .....	89
<b>Polkton, Town of</b> —charter consolidation .....	328(3a)–(3i)
<b>Pollution</b>	
Clean Smokestack Act public utility sanitary landfill exemption .....	37
Construction prior to or expansion of existing air quality permit .....	428
Cost share funds for limited resource/new farmers .....	284(11.6)
Leaking petroleum underground storage tanks Cleanup bond requirement .....	352(3), (5)
Cost-effective cleanup requirement .....	352(1)–(2), (4), (9)
Funds .....	284(11.4a)–(11.4f)
Funds use .....	352(3), (5)
Mixed contaminant cleanup .....	352(9)

**Pollution**—continued

Leaking petroleum underground storage tanks—continued

Program study .....	352(12a)–(12b)
Reporting requirement changes.....	340(2)
Secondary containment requirement rules .....	352(8)
Testing requirements .....	352(11)
Safe Drinking Water Act matching funds .....	284(11.10)
Technical corrections and conforming changes .....	340(1.7), (1.8a)–(1.8b)
Warren County landfill PCB cleanup.....	284(11.3a)–(11.3b)

**Ports**

Harbor deepening funds for Wilmington.....	284(31.2a)
Harbor maintenance	
Beaufort.....	284(31.2a)
Morehead City.....	284(31.2a)
Wilmington.....	284(31.2a)
Harbor nourishment for Morehead City .....	284(31.2a)
Manteo (Shallowbag) Bay channel maintenance .....	284(31.2a)
Oregon Inlet Project funds.....	284(12.1b)
State ports tax credit extension.....	414(7)–(8)

**Post-Release Supervision and Parole Commission**

Chairman's salary.....	284(30.3)
Members' salaries.....	284(30.3)
Reports — <i>see</i> that heading	
Staffing reorganization and reduction .....	284(16.21)

**Poverty**

Energy assistance programs block grant funds.....	284(5.1a)
Heating air repair and replacement program .....	284(5.1a)
Weatherization programs block grant funds.....	284(5.1a)

**Pregnancy**—*see* Women

<b>Princeville, Town of</b> —flood control study .....	284(31.2a)
--	------------

**Prisoners**

DNA samples to be collected from persons convicted of certain crimes.....	376
Local confinement facilities to provide health information of transferred prisoners.....	392(1)
Reimburse counties for State inmates, parolees, and supervisees.....	284(16.2)

**Privacy**

Address confidentiality program not available to jury commission.....	278(6)
Complaining party identity confidentiality authority for General Contractor Board .....	97(1)
Confidential mental health information disclosure and sharing .....	313
Confidentiality of DNA records .....	376(4)
Disclosure of police disciplinary records in Wilmington.....	238
Impaired veterinary personnel program agreements .....	139
Insurance customer information protection.....	262
Juvenile predisposition report.....	140(2)

<b>Privacy—continued</b>	
Military discharge document access.....	248
National Crime Prevention and Privacy Compact.....	214
Nurse testimonial privilege.....	342
Public enterprise billing information privacy law	
airport exclusion.....	287
Secret peeping statute modification.....	303
Technical corrections and conforming changes.....	349(4)
Terrorist response information not subject to open	
records/open meetings.....	180
Volunteer files of local education boards.....	353
<b>Private Personnel Service Advisory Council—</b>	
repealed.....	308(10)–(12)
<b>Private Protective Services Board—pay for use of State</b>	
facilities and services.....	284(14.2)
<b>Private Schools—see Colleges and Universities; Education</b>	
<b>Privatization</b>	
Driver education study.....	284(29.7)
Electronic monitoring outsourcing costs.....	284(16.14)
New prisons lease-purchase.....	284(47.1)–(47.2)
Private DWI offender services facility.....	396(1), (3)–(4)
Private law enforcement use of force/arrest authorization	
extended.....	351
Rape kit analyses by private vendor.....	284(14.9)
Tax collection outsourcing extension.....	349(3)
<b>Probation and Parole</b>	
Caseloads.....	284(16.18a)–(16.18c)
Caseloads study.....	284(16.18a)–(16.18c)
Community service work program.....	284(16.19)
Harriet's House report.....	284(16.17a)
Inmates eligible for parole report.....	284(16.20)
Special probation definition change.....	151
Stalking misdemeanor community punishment	
requirement.....	181
Summit House report.....	284(16.17b)
Women at Risk report.....	284(16.17c)
<b>Professional Corporations Act.....</b>	117(3)–(4)
<b>Property</b>	
Acquisition of property	
Engineers and Surveyors Board.....	347(1)
Future utilities lines by certain cities.....	74
Local school boards.....	355
Polk County Board of Education.....	89
Beach Plan —see Insurance	
Butner community land reservation.....	284(10.8)
Closed prison facilities use.....	284(16.5)



**Property—continued**

Convey property at private sale	
Bladen County Board of Education .....	122
Henderson County .....	322(1)
Mayland Community College .....	320(1)
Mecklenburg County .....	49
Pinebluff .....	48
Roanoke Rapids .....	43
Conveyance of property by a redevelopment commission .....	66
Escheats	
Unclaimed property program .....	284(28.5)
Veterans scholarship funding from Escheat Fund .....	284(18.5a)–(18.5c)
Exclusion for property used to reduce cotton dust clarification .....	284(43A.1)–(43A.2)
Henderson may accept deed subject to deed of trust .....	322(2)
Impact of acquisition of land for conservation on local tax revenues study .....	284(11.7a)–(11.7b)
Income property equity value assessment under Medicaid .....	284(10.19y)
Joint development activities authorized for Clay County with county in adjoining state .....	127
Land transfers for millennium campuses at UNC-Greensboro and NC A & T .....	284(6.20)
Manufactured home community conversion .....	400(5)
No recordation of deed without certificate of no delinquent taxes	
Duplin County .....	354(3)
Gates County .....	189(6)
Hyde County .....	72
Order to repair residential property not meeting code in Greensboro .....	76
Pricing display on manufactured homes .....	400(6)
Real property warranty companies to carry contractual liability policies .....	290(1a)
Reappraisal delay for Robeson County .....	201
Removal of wrecked, abandoned, disabled vehicles, and property from controlled-access highways .....	310
Right to acquire property of Board of Funeral Service .....	420(5b)
Sale	
Dorothea Dix property .....	314(3.4a)
Sale and lease-back of State-owned property study .....	284(6.8f)
Seized and forfeited property use .....	284(14.1a)–(14.1c)
Seized property reporting requirement .....	349(2)
State surplus property .....	283(3)
State surplus real property system .....	284(2.1), (6.8a)–(6.8g)
Surplus/confiscated property sale by electronic auction .....	284(18.6a)–(18.6c)

<b>Property</b> —continued	
Settlement of small claims against DHHS institutions .....	285
Subordination agreement requirements clarification.....	219
Surrender of manufactured home title .....	400(1)–(4)
Taxes and Assessments — <i>see</i> that heading	
Transfer of assets policy on real property under Medicaid .....	284(10.19x)
Transfer of property to qualify for Medicaid.....	284(10.26)
<b>Property Tax Subcommittee of Revenue Laws Study Committee</b> —impact of acquisition of land for conservation on local tax revenues study .....	284(11.7a)–(11.7b)
<b>Psychology</b> — <i>see</i> Mental Health	
<b>Psychology Board</b> —temporary license fee .....	368(4)
<b>Public Defenders</b>	
Appointment fee for criminal defendants .....	284(13.11)
Longevity service equalization for district attorneys and public defenders.....	284(30.19Aa)–(30.19Ad)
Public defender study .....	284(13.6)
Salaries.....	284(30.4b)
<b>Public Health</b> ( <i>see also</i> Health Departments (Local))	
Asbestosis/silicosis examination under workers' compensation.....	284(10.33a)–(10.33f)
Cervical Cancer Elimination Task Force created .....	176
Cervical cancer screening coverage.....	186
Childhood injury prevention block grant funds.....	284(5.1a)
Civil penalty for violation of food, drug, and cosmetic act .....	389
Coastal recreation waters monitoring rules .....	149
Cremation law improvements and strengthening .....	420(2)
Durham Housing Appeals Board to hear public health nuisance cases.....	51
Healthy mothers/healthy children block grants .....	284(5.1a)
Hearing screening program for newborns report.....	284(10.32)
HIV/STDs	
Prevention block grant funds .....	284(5.1a)
Risk reduction projects block grant funds.....	284(5.1a)
Immunization program funding.....	284(10.30a)–(10.30b)
Infant homicide prevention education and awareness.....	284(10.8Ba)–(10.8Bb)
Lead poisoning prevention .....	150
Notice of danger of alcohol to pregnancy requirement .....	339
Nutrition — <i>see</i> that heading	
Out-of-wedlock births reduction block grant funds .....	284(5.1a)
Ovarian cancer test coverage .....	223
Perinatal education and training block grant funds .....	284(5.1a)
Postsecondary degree institutions to provide meningococcal immunization.....	194
Pregnancy Prevention Coalition of NC block grant funds .....	284(5.1a)

**Public Health**—continued

Prior authorization exemption for certain drugs under  
Medicaid ..... 179  
Safe Drinking Water Act matching funds .....284(11.10)  
Safe sleep policy to prevent SIDS for child care facilities .....407(1)  
Screening program for newborns follow-up testing ..... 284(5.1f)  
Statewide health promotion program block grant funds .....284(5.1a)  
Technical corrections and conforming changes .....340(1.5)  
Tobacco use prohibition in public school buildings..... 421  
Traumatic Brain Injury Advisory Council created ..... 114  
Vaccination for first responders..... 227  
WCH-Teen Pregnancy Program block grant funds .....284(5.1a)

**Public Instruction, Department of**

Abstinence Until Marriage Education Program ..... 284(5.1f)  
Appropriations  
Base budget reduction .....284(7.24)  
Current operations .....284(2.1)  
Student information system testing and  
implementation funds..... 284(7.21a)–(7.21c)  
Cooperative innovative high school programs funding..... 277  
Limited English proficiency guidelines..... 284(7.15a)–(7.15c)  
Local boards of education E-Procurement system use ..... 147  
Medicaid services for students with disabilities collaboration.....284(10.29A)  
More-At-Four Program —see Health and Human  
Services, Department of (DHHS)  
Public School Building Capital Fund transferred  
from Budget and Management Office .....284(7.33a)–(7.33b)  
Reports —see that heading  
Superintendent's salary .....284(30.1b)

**Public Meetings**

Legislative meeting notices .....374(1)  
Terrorist response information not subject to open  
records/open meetings ..... 180

**Public Officials**

Ansonville mayor and town council's terms..... 190(3)  
Appointments —see that heading  
Filling vacancy on party ticket ..... 142  
Notice of appointment to certain State commissions,  
committees, councils and boards..... 374(2)–(8)  
Public construction contract surety bonds designation of  
surety company, agent, broker prohibited .....212(27)  
Recall election not a referendum .....278(5)  
Soil and Water Conservation Commission members may  
hold concurrent offices ..... 198  
Staggered terms  
Wayne County ..... 50  
Wilkes County ..... 45  
Surry sheriff vacancy ..... 39  
Wadesboro mayor's term ..... 190(1)

<b>Public Records</b> — <i>see</i> Records	
<b>Public Telecommunications, Agency for</b> —Executive	
Director's salary .....	284(30.3)
<b>Public Transportation</b>	
Purchase of supplies and equipment for public transit needs in Charlotte .....	197
Rail corridor subdivisions definition .....	284(29.23a)–(29.23b)
Unique mobility needs of urban areas study .....	383(5d), (5m)
<b>Publications</b>	
North Carolina Manual distribution and sale, and study .....	284(24.2)
Property tax rate publication in revaluation years .....	264

## R

<b>Raeford, City of</b> —annexation .....	17
<b>Railroads</b> —rail corridor subdivisions definition .....	284(29.23a)–(29.23b)
<b>Raleigh, City of</b>	
Blount Street historic district property sale .....	404
Electronic notification of public hearings .....	161(1)
Mobile medical operating room at Central Prison.....	284(16.7)
Sale of Dorothea Dix property.....	314(3.4a)
Tree clear-cutting limits and tree protection prior to development .....	128
<b>Randolph County</b>	
Acceptance of electronic signatures and records by Register of Deeds .....	326(2.1)
Asheboro, City of — <i>see</i> that heading	
Divide Superior Court District 19B.....	284(13.14a)–(13.14f)
<b>Ranlo, Town of</b> —voluntary satellite annexation .....	30
<b>Rape</b> — <i>see</i> Crimes	
<b>Real Estate</b> — <i>see</i> Deeds; Property	
<b>Real Estate Commission</b>	
Continuing education.....	361(2)
Criminal record check.....	361(1)
Out-of-state brokers and salesperson limitations.....	361(3)–(4)
Testing methods.....	361(1)
<b>Real Property Management Advisory Council</b> —created.....	284(6.8d)
<b>Recordation of Instruments</b> ( <i>see also</i> Records)	
No recordation of deed without certificate of no delinquent taxes	
Duplin County .....	354(3)
Gates County .....	189(6)
Hyde County .....	72
<b>Records</b> ( <i>see also</i> Privacy; Public Meetings)	
Acceptance of electronic signatures and records by Register of Deeds in certain counties .....	326(2.1)
Birth and death certificates amendment .....	60
Child Fatality Review Team may compel records disclosure .....	304(6)

**Records—continued**

Confidential mental health information disclosure and sharing ..... 313

Consent to service of process and pleadings for nonresident real estate licensees.....361(4)

Corporate report submissions in electronic format.....233(3)

Criminal records

    Long-term care criminal record checks effective date ..... 284(10.8E)

    Manufactured home dealer, manufacturer, salesperson, set-up contractor criminal history check for licensure..... 400(8)–(12)

    National Crime Prevention and Privacy Compact ..... 214

Records checks

    Concealed handgun permits report ..... 284(14.5a)

    Fee adjustment study ..... 284(14.5b)

    Fire departments ..... 182

    Foster care licensure ..... 304(4)

    Locksmith Board.....350(4)–(5), (11)–(12)

    Real estate licensure.....361(1)

Disposal of asbestosis/silicosis x-rays plan ..... 284(10.33e)

Electronic signatures use and validity ..... 233(1)–(2)

Foster care home applicants registry ..... 304(5)

Insurance company document submission requirements ..... 290(3)

Military discharge document access..... 248

Motor vehicle and service agreement companies

    document submission requirements ..... 290(2)

Prevent duplicate names on jury lists ..... 226(7c)–(7d)

Secretary of State fees ..... 284(35B.1a)–(35B.3b)

Statewide voter registration system ..... 226(2)–(7b), (9)–(10)

Superior Court fees ..... 284(36A.2)–(36A.3)

Terrorist response information not subject to open records/ open meetings ..... 180

Validation of certain notarial acts ..... 38

**Recreation and Leisure**

Amusement device safety enhancement..... 170

Bikeways and trails funding authority clarification ..... 256

Pembroke Creek no-wake zone ..... 189(1)–(5)

Skateboard and hazardous recreation operator duties ..... 334

**Recycling—see Conservation**

**Referendums and Initiatives—see Elections**

**Regional Economic Development Commission,**

**Northeastern North Carolina**

Allocations ..... 284(12.7a)–(12.7b), (12.8d)–(12.8e)

Reports —see that heading

**Regional Economic Development Commission,**

**Southeastern North Carolina**

Allocations ..... 284(12.7a)–(12.7b), (12.8d)–(12.8e)

Reports —see that heading

**Regional Economic Development Commission,  
Western North Carolina**

Allocations..... 284(12.7a)–(12.7b),  
(12.8d)–(12.8e)

Reports —*see* that heading

**Register of Deeds**

Acceptance of electronic signatures and records by

Register of Deeds in certain counties..... 326(2.1)

Military discharge document access..... 248

No recordation of deed without certificate of no delinquent  
taxes

Duplin County..... 354(3)

Gates County..... 189(6)

Hyde County..... 72

**Reports**

Administration, Department of

Advocacy programs study..... 284(18.2)

Agency use of recycled steel products..... 284(6.10b)

Recycled, durable, less toxic products purchasing..... 340(1.6)

Request for information for energy management  
services..... 284(6.13)

Sale and lease-back of State-owned property study..... 284(6.8f)

State-owned surplus real property system..... 284(6.8g)

Administrative Office of the Courts (AOC)

Child custody orders pilot program..... 381(2c)

Agriculture and Consumer Services, Department of

Commercial turtle production study..... 284(10A.1)

Biotechnology Center

Reporting requirement..... 284(12.10c)–(12.10d)

Budget and Management, Office of State

Budget code adjustments..... 284(6.3b)

Criminal record checks fee adjustment study..... 284(14.5b)

Expenditures in excess of amounts certified..... 284(6.2)

General Fund and Highway Fund codes not corresponding  
in reduced allotment from appropriations..... 284(6.1)

High-level officers compensation..... 284(30.15)

Information technology operation centralization

analysis and plan..... 284(10.8Ac)

IT budget structure review..... 284(21.1)

Project cost increase..... 284(31.7)

Repairs and Renovations Reserve funds

expenditures..... 284(31.5)

Review and evaluation of budget practices..... 284(6.2Ab)

Carolinas Partnership, Inc.

Reporting requirement..... 284(12.8a)–(12.8c)

Cervical Cancer Elimination Task Force..... 176

**Reports—continued**

Commerce, Department of	
Film Industry Development Account.....	284(12.6Ab)
Global TransPark Development Commission board structure study .....	284(12.8f)
One North Carolina - Industrial Recruitment Competitive Fund.....	284(12.4c)
Communities in Schools	
Reporting requirement.....	284(15.3c)
Community Colleges, State Board of	
Faculty salaries transfers .....	284(8.1)
Nonprofit sponsorship of student .....	284(8.16Ab)
Community Colleges System Office	
Business License Information Office transfer to community college Small Business Centers plan .....	284(24.1c)
Entrepreneurial skills training program funds.....	284(12.6c)
Hosiery Technology Center funds .....	284(12.6c)
Community Development Corporations, Inc., Association of	
Reporting requirement.....	284(12.9a)–(12.9b)
Community Development Initiative	
Reporting requirement.....	284(12.9a)–(12.9b)
Correction, Department of	
Closed prison facilities use.....	284(16.5)
Community service work program.....	284(16.19)
Computer/data processing services .....	284(16.11)
Contracted medical positions conversion.....	284(16.8b)
Criminal Justice Partnership Program.....	284(16.16d)
Electronic monitoring outsourcing costs and underutilization .....	284(16.14)
Energy Committed to Offenders Inc. contract for beds.....	284(16.13)
Federal grant matching funds .....	284(16.10)
Federal grant reporting .....	284(16.1)
Housing of inmates plan.....	284(16.22)
Mobile medical operating room study .....	284(16.7)
Offender fees collection .....	284(16.15)
Positions/programs eliminated for savings .....	284(13.1b)
Probation/parole caseloads.....	284(16.18a), (16.18c)
Reimburse counties for State inmates, parolees, and supervisees .....	284(16.2)
Security staff shift pay.....	284(16.3)
Security staffing formulas .....	284(16.4c)
Seized and forfeited property use.....	284(14.1a)
Corrections, Crime Control, and Juvenile Justice	
Oversight Committee, Joint Legislative	
Dispute settlement centers study .....	284(13.15b)
Crime Commission, Governor's	
Drug law enforcement grants review .....	284(17.4a)–(17.4b)

**Reports—continued**

Crime Control and Public Safety, Department of	
Drug law enforcement grants review .....	284(17.4a)–(17.4b)
Federal grant reporting .....	284(16.1)
Positions/programs eliminated for savings .....	284(13.1b)
Seized and forfeited property use .....	284(14.1a)
Tarheel Challenge Program annual evaluation .....	284(17.3)
Victims Assistance Network .....	284(17.5)
Cultural Resources, Department of	
Museum admission fees .....	284(35A.4)
Education, Boards of (Local)	
Mentor teacher pilot programs .....	284(7.30c)
Mentor teacher retention impact .....	284(7.30d)
Education Oversight Committee, Joint Legislative	
Student population growth issues study .....	284(7.29)
Tuition waivers study .....	230
Education, State Board of	
Driver education privatization study .....	284(29.7)
Financial literacy pilot program .....	284(7.35)
High school students in college level courses study .....	284(7.36)
High-priority school initiatives evaluation .....	284(7.10c)
Lateral entry requirements for teachers .....	284(7.20f)
LEA assistance fund expenditures .....	284(7.17)
Limited English proficiency allotment review .....	284(7.15c)
Mentor teacher program effectiveness .....	284(7.30e)
Mentor teacher retention impact .....	284(7.30d)
No Child Left Behind Act of 2001 implementation .....	419
Safety rules for activity buses study .....	284(7.25c)
School nurse service standards review .....	284(7.32)
Small school system supplemental funding .....	284(7.7e)
Supplemental funding for low-wealth counties .....	284(7.6i)
Teacher certification study .....	284(7.39)
Employment Security Commission	
Job training, education, and placement evaluation funds .....	284(12.6c)
State education and training program tracking system funds .....	284(12.6c)
Environment and Natural Resources, Department of (DENR)	
Animal waste management system inspection pilot program .....	340(6.2)
Express review pilot program .....	284(11.4Ae)
Nondischarge animal waste permits study .....	28(2)
Petroleum underground storage tanks reporting requirement changes .....	340(2)
Water resource development projects .....	284(31.2c)
Western Core Sound shellfish cultivation leases .....	64



**Reports—continued**

Environmental Review Commission	
Evaluate water quality and endangered species protection in Swift Creek .....	433(3)
Leaking petroleum underground storage tank program study .....	352(12b)
Executive Budget Act Revisions, Joint Committee on Budget process financial management practices study .....	284(6.12b)
Farm and Rural Families, Coalition of Reporting requirement.....	284(12.9a)–(12.9b)
General Statutes Commission Puppy mill regulation study .....	208(2a)–(2b)
Global TransPark Development Commission Reporting requirement.....	284(12.8a)–(12.8c)
Harriet's House Annual report.....	284(16.17a)
Health and Human Services, Department of (DHHS)	
ADAP income eligibility expansion .....	284(10.31Ac)
ADAP utilization.....	284(10.31a)–(10.31b)
After-school services for at-risk children.....	284(5.1m)
Area mental health administrative costs .....	284(10.17b)
Child placement.....	294(6b)
Child support program enhanced standards .....	284(10.44c)
Child welfare services staff training .....	304(7.2)
Child welfare system pilots.....	284(10.56d)
Community Alternatives Program for Disabled Adults review .....	284(10.29Bb)–(10.29Bc)
Comprehensive treatment services program .....	284(10.13)
Comprehensive Treatment Services Program.....	294(6a)
Disposal of asbestosis/silicosis x-rays plan.....	284(10.33e)
Infant homicide prevention education and awareness .....	284(10.8Bb)
Information technology operation centralization analysis and plan .....	284(10.8Ac)
Intensive Family Preservation Services Program funding and performance enhancement .....	284(10.48e)
Inter-Agency Council for Coordinating Homeless Programs expenditures.....	284(5.1v)
Long-term care community service coordination pilot project .....	284(10.8Fb)
Medicaid hospital payments valuation.....	284(10.29C)
Medicaid plan changes .....	284(10.19t)
Mental retardation center downsizing .....	284(10.14c)
Mental retardation center transition plan .....	284(10.15c)
More-At-Four progress report.....	284(10.40e)
Multiply diagnosed adults services .....	284(10.16d)
Newborn hearing screening program report .....	284(10.32)
Residential schools reporting .....	284(10.41)

**Reports—continued**

Health and Human Services, Department of (DHHS)—continued	
Special Assistance In-Home Program.....	284(10.51c)
State mental hospitals transition planning.....	284(10.12d)
State/County Special Assistance	
Costs review.....	284(10.52f)
Transfer of assets.....	284(10.53c)
Substance abuse prevention services reporting.....	284(10.11)
Substance abuse services for women with children.....	284(5.1j)
Work First reporting requirements eliminated.....	284(10.57)
Work over welfare demonstration program in Cabarrus	
County valuation.....	188
Highway Trust Fund Study Committee	
Study report.....	284(29.12k)
Housing Finance Agency	
HOME Program matching funds.....	284(20.1a)
Humanities Council	
Reporting requirement.....	284(26.1)
Indigent Defense Services, Office of	
Center for Death Penalty Litigation funds.....	284(13.10)
Public defender study.....	284(13.6)
Reporting requirement.....	284(13.3)
Information Technology Services, Office of	
Information technology security assessment.....	153(1)
Legacy information technology systems analysis and	
modernization plan.....	172
Judicial Department	
Drug treatment court program cost savings.....	284(13.4b)
Federal grant reporting.....	284(16.1)
Offender fees collection.....	284(16.15)
Positions/programs eliminated for savings.....	284(13.1a)–(13.1b)
Worthless check funds use.....	284(13.2)
Justice, Department of	
Federal grant reporting.....	284(16.1)
Juvenile assessment center effectiveness.....	284(15.3b)
Positions/programs eliminated for savings.....	284(13.1b)
Records check for concealed handgun permits.....	284(14.5a)
Seized and forfeited property use.....	284(14.1a)
Juvenile Justice and Delinquency Prevention, Department of	
Child placement.....	294(6b)
Community programs annual evaluation.....	284(15.5)
Compliance with audit report on youth development	
and detention centers.....	284(15.9)
Comprehensive Treatment Services Program.....	294(6a)
Federal grant reporting.....	284(16.1)
Juvenile crime prevention council grants.....	284(15.2a)
Positions/programs eliminated for savings.....	284(13.1b)
Samarkand Youth Academy timber sale.....	284(15.10b)

**Reports—continued**

Juvenile Justice and Delinquency Prevention, Department of—continued	
Youth development centers	
Beds funds.....	284(15.6b)
New planning.....	284(15.7a)–(15.7b)
Labor, Department of	
Apprenticeship Program funds.....	284(12.6c)
Land Loss Prevention Project	
Reporting requirement.....	284(12.9a)–(12.9b)
Legal Education Assistance Foundation	
Funds disbursed.....	284(14.6)
Mediation Network of North Carolina	
Cases mediated.....	284(13.15c)
Medicaid Reform, Blue Ribbon Commission on	
Study.....	284(6.14Ac)
Mental Health, Developmental Disabilities, and Substance Abuse Services, Legislative Oversight Committee on	
Certain reports required to be made to Committee.....	58
Mental Health, Developmental Disabilities, and Substance Abuse Services, Joint Legislative Oversight Committee on	
Substance abuse services assessing agencies study.....	396(2)
Minority Economic Development, Institute for	
Reporting requirement.....	284(12.9a)–(12.9b)
Minority Support Center	
Reporting requirement.....	284(12.9a)–(12.9b)
More-At-Four Pre-K Task Force	
More-At-Four progress report.....	284(10.40e)
Motor Fleet Management Division	
Best management practices for motor pool.....	177
Opportunities Industrialization Centers	
Reporting requirement.....	284(12.12b)
Partnership for Children	
Duplication of Smart Start services study.....	284(10.38i)
Smart Start activities report.....	284(10.38k)
Partnership for the Sounds	
Reporting requirement.....	284(12.9a)–(12.9b)
Piedmont Triad Partnership	
Reporting requirement.....	284(12.8a)–(12.8c)
Post-Release Supervision and Parole Commission	
Inmates eligible for parole.....	284(16.20)
Project Challenge North Carolina	
Reporting requirement.....	284(15.3a)
Property Tax Subcommittee of Revenue Laws Study Committee	
Impact of acquisition of land for conservation on local tax revenues study.....	284(11.7b)

**Reports—continued**

Public Instruction, Department of	
Child placement.....	294(6b)
Comprehensive Treatment Services Program.....	294(6a)
Local boards of education E-Procurement system use pilot program.....	147
More-At-Four progress report.....	284(10.40e)
No Child Left Behind Act of 2001 implementation .....	419
Regional Councils of Government	
Reporting requirements.....	284(12.2e)
Regional Economic Development Commission, Northeastern North Carolina	
Reporting requirement.....	284(12.8a)–(12.8c)
Regional Economic Development Commission, Southeastern North Carolina	
Reporting requirement.....	284(12.8a)–(12.8c)
Regional Economic Development Commission, Western North Carolina	
Reporting requirement.....	284(12.8a)–(12.8c)
Research Triangle Regional Commission	
Reporting requirement.....	284(12.8a)–(12.8c)
Revenue, Department of	
Property tax base .....	284(7.6j)
Sale of seized property reporting requirement.....	349(2)
Voluntary tax compliance abuse .....	284(23.4)
Revenue Laws Study Committee	
Outdoor advertising amortization ordinances study .....	432(2)
Rural Economic Development Center	
Budget report.....	284(12.11b)
Reporting requirement.....	284(12.11e)
Second Harvest North Carolina	
Food bank funds.....	284(10.55b)
Secretary of State	
Business License Information Office transfer to community college Small Business Centers plan .....	284(24.1c)
Electronic notarization study.....	233(4)
North Carolina Manual distribution and sale, and study .....	284(24.2)
State Auditor	
Community Alternatives Program for Disabled Adults audit.....	284(10.29Ba)
State Controller	
ITS infrastructure maintenance agreement pilot project.....	284(21.2b)
Overpayments audit.....	284(27.1e)
State Disability Income Plan, the State Death Benefit Plan, and the Separate Insurance Benefits Plan for Law Enforcement Officers, Study Commission on	
Study.....	284(30.20h)
State Personnel, Office of	
High-level officers compensation .....	284(30.15)

**Reports—continued**

State Treasurer	
Legislative Retirement System transfer of service study .....	284(30.18i)
Retirement Systems Division staffing analysis follow-up .....	284(28.4b)
Technology infrastructure enhancements report .....	284(28.3)
Statewide Benefit Committee to Provide a Menu of Portable Supplemental Benefits for all State Employees, Study Commission on Establishment of a Study .....	284(30.21g)
Summit House	
Annual report .....	284(16.17b)
Teachers' and State Employees' Retirement System Board of Trustees	
Legislative Retirement System transfer of service study .....	284(30.18i)
Transfers between line items by State agencies .....	284(6.22)
Transportation, Department of	
Moving ahead transportation initiative .....	383(3)
Productivity pilot programs .....	284(29.3)
Recycled, durable, less toxic products purchasing .....	340(1.6)
Small urban contingency funds .....	284(29.2)
Transportation services for trade shows .....	284(29.17)
Transportation Oversight Committee, Joint Legislative	
License plate issues study .....	424(7)
Moped identification tag study .....	397(6)
UNC Board of Governors	
Film industry feasibility study .....	284(9.5)
Repairs and Renovations Reserve funds expenditures .....	284(31.5)
University of North Carolina	
Budget reductions .....	284(9.1)
Virginia-North Carolina High-Speed Rail Commission	
Report extended .....	284(29.19a)–(29.19b)
Winston-Salem/Forsyth County School Board	
School construction/repair contract flexibility .....	269
Women at Risk	
Annual report .....	284(16.17c)
<b>Rescue Squads—see Emergency Services</b>	
<b>Research Triangle Regional Commission</b>	
Allocations .....	284(12.7a), (12.8d)
Audited financial statement .....	284(12.7b)
Budget code location .....	284(12.8e)
Reports —see that heading	
<b>Respiratory Care Board</b>	
Appointments and membership .....	384(1)
Civil penalties .....	384(8)
Licensure background investigation .....	384(2)
Licensure fees .....	384(5)
Provisional license .....	384(5)
Temporary license .....	384(4)
<b>Respiratory Care Practice Act</b> .....	384

**Retailing**

Definition of employee newspaper/magazine sales clarification .....	156
Manufactured home dealer, manufacturer, salesperson, set-up contractor criminal history check for licensure .....	400(8)–(12)
Plumbing and heating retailers .....	2; 31
Price gouging prohibited.....	412
Pricing display on manufactured homes.....	400(6)
Purchase agreement cancellation on manufactured home .....	400(7)

**Retirement**

COLAs .....	284(30.17a)–(30.17c)
Consolidated Judicial Retirement System (CJRS)	
COLAs .....	284(30.17a)
Employer salary-related contributions .....	284(30.16a)–(30.16e)
Transfer of service.....	284(30.18a)–(30.18j)
Continuing care retirement laws technical changes .....	193
Durham Firemen's Supplemental Retirement System	
Board membership .....	325(1)–(2)
Name change .....	325(3)
Emergency pension fund changes for Mecklenburg County .....	323
Fayetteville firemen's supplemental retirement benefit fund repealed.....	34
Firemen's and Rescue Squad Worker's Pension Fund	
Appropriations.....	284(2.1)
Eligible firemen defined.....	362
Pension increase .....	284(30.19)
Firemen's relief fund and supplementary pension fund changes for Lumberton.....	324
Honor retiring or deceased firefighters with presentation of fire helmet.....	145
Legislative Retirement System (LRS)	
COLAs .....	284(30.17b)
Employer salary-related contributions .....	284(30.16a)–(30.16e)
Transfer of service.....	284(30.18a)–(30.18j)
Transfer of service study .....	284(30.18i)
Local Government Employees Retirement System (LGERS)	
Enhanced benefits .....	319
Technical corrections and conforming changes .....	359(13)–(22)
Transfer of service.....	284(30.18a)–(30.18j)
Reinstatement of retired nurse .....	29
Retirement and employee benefit fund investments by Fayetteville .....	318(4)
Teachers' and State Employees' Retirement System (TSERS)	
COLAs .....	284(30.17a)
Employer salary-related contributions .....	284(30.16a)–(30.16e)
Reserve for retiree health benefits.....	284(2.1)
Reserve for teachers and State employees retirement contribution .....	284(2.1)
Technical corrections and conforming changes .....	359(1)–(12)
Transfer of service.....	284(30.17c)
UNC Optional Retirement Plan participation limit .....	356
Winston-Salem firemen's retirement fund.....	35

**Retirement Homes**—*see* Nursing Homes; Retirement

**Revenue, Department of**

Allocation of sales and use tax .....	416(27a)–(27b), (28)
Appropriations	
Certain fee supported positions .....	284(23.2)
Current operations .....	284(2.1)
Taxpayer telecommunications service .....	284(23.1), (23.3)
Certificate of registration holder liable for tax .....	416(17)
Consolidated corporate income tax returns .....	349(9)
Corporate report submissions in electronic format.....	233(3)
Hold harmless calculation simplified .....	349(6)
Local government hold harmless adjustment .....	284(37.1)
Reports — <i>see</i> that heading	
Sales tax distribution based on taxpayer data.....	349(5)
Sales tax transfer for Wildlife Resources Commission	
compensation bonus .....	284(30.15A)
Secretary's salary .....	284(30.2)
Tax collection outsourcing extension.....	349(3)
Tax credit breakdown on filing form.....	415 (3)
Taxpayer telecommunications service.....	284(23.1)

**Revenue Laws Study Committee**

Consolidated corporate income tax returns .....	349(9)
Outdoor advertising amortization ordinances study.....	432(2)

**Revised Uniform Arbitration Act**..... 345

**Richmond County**

Rockingham, City of — <i>see</i> that heading	
Sheriff vacancy .....	90

**Roads and Highways** (*see also* Ferries)

511 Traveler information system automation.....	184(4)
Agricultural vehicle escort and driver training program	
implementation .....	383(7)
Attraction logo signs allowed .....	184(2)–(3)
Contract maintenance resurfacing program funds use .....	112(1)
Durham annexation.....	26
Environmental permit requirement on transportation projects.....	284(29.6)
Excess weight/oversize fees funds use .....	284(29.5)
Expenditure of funds on roads outside corporate limits for	
certain cities.....	132
Flagman not required to move agricultural equipment	
between farms.....	383(8)
Guideway transit safety responsibility .....	184(1)
High occupancy lanes authorized .....	184(5)
Hunting from right-of-way prohibited in Craven County .....	164
Local and metropolitan planning organization funds .....	284(29.14a)–(29.14c)
Medium-custody road crew compensation.....	284(16.12a)–(16.12b)
Moving ahead transportation initiative.....	383
Parking ordinance adoption and enforcement for	
Salisbury .....	130
Parking regulation at Appalachian State .....	213

<b>Roads and Highways—continued</b>	
Pretowing notices in Asheville .....	165
Project delivery process study .....	284(29.21)
Removal of wrecked, abandoned, disabled vehicles, and property from controlled-access highways.....	310
Right-of-way encroachment allowed for private bridges.....	267
Secondary road paving funds use for safety improvements .....	112(2)
Small horse trailer weigh station exemption .....	338
Small urban contingency funds .....	284(29.2)
Traffic control cameras	
Certain cities.....	86
Photographic-speed measuring device standards.....	280(2)–(3)
Pilot program for Charlotte .....	280(1), (4)
Traffic control decisions by Durham City Manager.....	85
Unique mobility needs of urban areas study .....	383(5d), (5m)
Urban loop definition change .....	284(29.11a)–(29.11b)
<b>Roanoke Island Commission—appropriations.....</b>	<b>284(2.1)</b>
<b>Roanoke Rapids, City of</b>	
Annexation.....	7; 200
Convey property at private sale .....	43
Deannexation .....	271(1)
Repair of residential property not meeting code .....	320(2)
<b>Robeson County</b>	
Indian Cultural Center Board appointments.....	260
Lumbee Tribe clarification .....	54(1)
Lumberton, City of — <i>see</i> that heading	
Property reappraisal delay .....	201
<b>Rockingham, City of—tree clear-cutting limits prior to development.....</b>	<b>246</b>
<b>Rockingham County</b>	
Eden, City of — <i>see</i> that heading	
Haw River State Park added to parks system .....	108
Mayo River State Park added to parks system .....	106
Wentworth, Town of — <i>see</i> that heading	
<b>Rocky Mount, City of</b>	
Charter consolidation.....	327
Children's Museum grassroots science program grant-in-aid .....	284(11.1a)
Nash-Rocky Mount Board of Education boundary with Edgecombe Board of Education.....	346(4)
Opportunities Industrialization Center funds .....	284(12.12a)–(12.12c)
Overgrown vegetation violators annual notice .....	80
<b>Rowan County</b>	
Granite Quarry, Town of — <i>see</i> that heading	
Landis, Town of — <i>see</i> that heading	
Salisbury, City of — <i>see</i> that heading	
<b>Rules Review Commission</b>	
Appropriations .....	284(2.1)
Role clarification .....	229



**Rural Economic Development Center**

Appropriations  
Allocations ..... 284(12.11a)  
Community development corporation allocations ..... 284(12.11c)–(12.11d)  
Current operations ..... 284(2.1)  
Opportunities Industrialization Centers ..... 284(12.12a)–(12.12c)  
Reports —see that heading

**Rural Internet Access Authority**—replaced by

E-NC Authority ..... 425(1)

**Rutherford County**

Lake Lure Marine Commission created ..... 332  
Rutherfordton, Town of —see that heading

**Rutherfordton, Town of**

KidSenses grassroots science program grant-in-aid ..... 284(11.1b)  
Tree clear-cutting limits prior to development ..... 128

**S**

**Safety**

Amusement device safety enhancement ..... 170  
Commercial drivers license federal compliance for railroad  
crossing violations ..... 397(2)  
Demolition of unsafe residential buildings in community  
development areas of certain cities ..... 23; 42  
Order to repair residential property not meeting code in  
Greensboro ..... 76  
Pyrotechnic display regulation ..... 298  
Reinspection of workplaces with previous serious safety  
violations ..... 174  
Repair of residential property not meeting code in Roanoke  
Rapids ..... 320(2)  
Safety rules for activity buses study ..... 284(7.25c)  
Skateboard and hazardous recreation operator duties ..... 334  
Sprinklers in bars and clubs  
Carrboro ..... 237(1)  
Chapel Hill ..... 247

**Safety Equipment**—see Safety

**Salaries and Benefits**

Annual leave bonus for State employees ..... 284(30.12Ba)–(30.12Bb)  
Assistant and deputy clerks of court salaries ..... 284(30.6)  
Central education office salaries ..... 284(7.3a)–(7.3f)  
Clerks of Court salaries ..... 284(30.5)  
Community college personnel salaries ..... 284(30.11)  
Compensation bonus for State employees ..... 284(30.12Aa)–(30.12Ab),  
(30.13a)–(30.13b),  
(30.14a)–(30.14e)  
Corrections security staff shift pay ..... 284(16.3)  
Court fees redirection ..... 284(30.19Ba)–(30.19Bb)  
DOR fee supported positions ..... 284(23.2)

**Salaries and Benefits**—continued

Employer salary-related contributions.....	284(30.16a)–(30.16e)
Executive branch salaries .....	284(30.3)
Faculty and professional staff salary increases for community colleges.....	284(8.11)
GA Principal Clerks' salaries.....	284(30.8)
GA Sergeant-at-Arms and reading clerks' salaries.....	284(30.9)
Governor and Council of State .....	284(30.1a)–(30.1b)
High-level officers compensation study .....	284(30.15)
Judicial branch salaries .....	284(30.4a)–(30.4c)
Legislative employees' salaries.....	284(30.10)
Local Government Employees Retirement System (LGERS) — <i>see</i> Retirement	
Longevity service equalization for district attorneys and public defenders.....	284(30.19Aa)–(30.19Ad)
Magistrate salaries .....	284(30.7)
Noncertified personnel salaries.....	284(7.4a)–(7.4c)
Nonelected department heads salary .....	284(30.2)
Parental Savings Trust Fund payroll deduction for State employees .....	224
Precinct officials/assistants compensation.....	278(3)
Productivity pilot programs in Transportation Department .....	284(29.3)
Public school staff pay during military duty .....	301
Reserve for salary adjustments .....	284(2.1)
Reserve for teachers and principals experience step increase.....	284(7.5a)–(7.5b)
Reserve for transfer of various benefit plans.....	284(2.1)
Retirement — <i>see</i> that heading	
Retirement and employee benefit fund investments by Fayetteville .....	318(4)
Sales tax transfer for Wildlife Resources Commission compensation bonus .....	284(30.15A)
Sanitary district boards compensation.....	185
School-based administrators salary schedules.....	284(7.2a)–(7.2j)
Statewide Benefit Committee establishment study .....	284(30.21c)
Teacher recruitment and retention initiatives .....	284(7.20a)–(7.20h)
Teacher salary schedules .....	284(7.1a)–(7.1g)
Training wage statute repealed .....	308(8)
UNC EPA compensation .....	284(30.12a)–(30.12b)
Visiting international faculty .....	284(7.41)
<b>Sales and Leases</b> ( <i>see also</i> Retailing)	
Closed prison facilities use .....	284(16.5)
Convey property at private sale	
Henderson.....	322(1)
Mayland Community College .....	320(1)
Mecklenburg County.....	49
Pinebluff.....	48
Roanoke Rapids.....	43

<b>Sales and Leases—continued</b>	
Long-term leases between US and Stanly County airport authority authorized.....	259(3)
Retailer leasing motor vehicles may pay gross receipts tax .....	5
Sale and lease-back of State-owned property study .....	284(6.8f)
Sale of seized property reporting requirement .....	349(2)
Sale of State surplus property .....	283(3)
Sales representative commissions.....	331
<b>Salisbury, City of—parking ordinance adoption and enforcement .....</b>	<b>130</b>
<b>Sampson County</b>	
Clinton, City of — <i>see</i> that heading	
Local boards of education E-Procurement system use pilot program .....	147
TANF electing county .....	284(10.49c)–(10.49d)
<b>Sanitation—sanitary district boards compensation .....</b>	<b>185</b>
<b>SBI (State Bureau of Investigation)—<i>see</i></b>	
Law Enforcement	
<b>Scholarships—<i>see</i> Higher Education; Tuition</b>	
<b>Science and Technology</b>	
Museums — <i>see</i> that heading	
<b>Science and Technology, Board of—advice and recommendations to General Assembly.....</b>	<b>210</b>
<b>Scotland County—Indian Cultural Center Board appointments .....</b>	<b>260</b>
<b>Seafood Industrial Park Authority—Wanchese Seafood Industrial Park funds .....</b>	<b>284(12.1a)</b>
<b>Secondary Education—<i>see</i> Education</b>	
<b>Secretary of State</b>	
Appropriations .....	284(2.1)
Business License Information Office transfer to community college Small Business Centers plan.....	284(24.1a)–(24.1c)
Corporate report submissions in electronic format.....	233(3)
Electronic notarization study .....	233(4)
Fees .....	284(35B.1a)–(35B.3b)
Filing fees nonrefundable .....	349(7)
Motor fuel tax change.....	349(10.1)–(10.16)
North Carolina Manual distribution and sale, and study .....	284(24.2)
Offensive place-names.....	211
Regulation of athlete agents.....	375
Report of solicitors' revenue on percentage of contributions going to charitable organization .....	373
Salary .....	284(30.1b)
<b>Securities—<i>see</i> Investments</b>	
<b>Sentencing (<i>see also</i> Courts)</b>	
Assault in the presence of a minor.....	409
Bulletproof vest during commission of felony enhancement.....	378(4)
Class B1 felony enhanced sentence if victim was 13 or younger .....	378(3)
Enhanced sentencing amendments .....	378

<b>Sentencing</b> —continued	
Handgun use in felony enhancement.....	378(1)–(2)
Penalty for damaging a public building with an explosive device.....	392(3c)
Probation and Parole — <i>see</i> that heading	
Stalking misdemeanor community punishment requirement.....	181
<b>Septic Systems</b> — <i>see</i> Water and Sewer Systems	
<b>Sex Offenses</b> — <i>see</i> Crimes	
<b>Sheriffs</b> — <i>see</i> Law Enforcement	
<b>Small Business</b>	
Entrepreneurial needs and small business assistance.....	284(5.2g)
Entrepreneurial skills training program funds.....	284(12.6b)
Small brewery production ceiling increase.....	430
<b>Smart Start</b> — <i>see</i> Early Childhood Education and Development Initiatives, Health and Human Services, Department of (DHHS)	
<b>Smithfield, Town of</b> —tree clear-cutting limits prior to development.....	246
<b>Smoke Detectors</b> — <i>see</i> Safety	
<b>Social Services</b> ( <i>see also</i> Adoption; Welfare)	
Child welfare services staff training.....	304(4.2)
Child welfare system pilots.....	284(10.56a)–(10.56d)
HOME Program matching funds.....	284(20.1a)–(20.1c)
Low-income residential energy program.....	284(18.3)
Oil overcharge funds for weatherization assistance program.....	284(10.1a)–(10.1b)
Second Harvest North Carolina food bank funds.....	284(10.55a)–(10.55b)
Weatherization assistance program for low-income families.....	284(10.3)
<b>Social Services Commission</b>	
Adult day and health centers rate-setting rules.....	284(10.58)
Special Needs Adoption Incentive Fund rules.....	284(10.45)
<b>Social Services, Departments of (County)</b>	
Block grant transfer from TANF.....	284(5.1a)
Child care subsidy rates.....	284(10.35a)–(10.35h)
Child welfare system pilots.....	284(10.56a)–(10.56d)
Child welfare workers block grant funds.....	284(5.1n)
Cooperation in child abuse and neglect investigations.....	407(2)
Disagreement of residency of child.....	304(7)
Domestic violence services for Work First families.....	284(5.11)
In-home services block grant funds.....	284(5.1a)
Predisposition report.....	140(2)
Protective services entry in to private home.....	304(4.1)
State/county special assistance.....	284(10.52a)–(10.52f)
Substance abuse services for women with children.....	284(5.1j)
<b>Social Workers</b>	
Child welfare services staff training.....	304(4.2), (7.1)
Child welfare workers block grant funds.....	284(5.1a)
<b>Soil and Water Conservation Commission</b> —members may hold concurrent offices.....	198

<b>Solid Waste</b> —recycled, durable, less toxic products purchasing by agencies report .....	340(1.6)
<b>Southeastern North Carolina Regional Economic Development</b>	
<b>Commission</b> — <i>see</i> Regional Economic Development Commission, Southeastern North Carolina	
<b>Special Economic Zones</b> — <i>see</i> Economic Development; Planning and Zoning	
<b>Speech and Language Pathologists and Audiologists,</b> <b>Board of Examiners for</b> —fees .....	222
<b>Speed Limit</b> — <i>see</i> Boating; Law Enforcement	
<b>Sports</b>	
Athletic contracts for minors .....	207
Plumbing exemption for bleacher addition to existing field at UNC Wilmington .....	239
Regulation of athlete agents.....	375
<b>Spring Lake, Town of</b> —traffic control cameras .....	86
<b>Sprinkler Systems</b> — <i>see</i> Safety	
<b>Spruce Pine, Town of</b> —private prison acquisition capital financing .....	284(46A.1a)– (46A.1e)
<b>Stanly County</b>	
Albemarle, City of — <i>see</i> that heading	
Locust, City of — <i>see</i> that heading	
Long-term leases between US and Stanly County airport authority authorized.....	259(3)
Misenheimer, Village of — <i>see</i> that heading	
Norwood, Town of — <i>see</i> that heading	
<b>State Auditor</b>	
Appropriations .....	284(2.1)
Community Alternatives Program for Disabled Adults audit .....	284(10.29Ba)
Explornet audit.....	284(7.31)
Non-State entity reports on use of State funds .....	284(6.21)
Salary .....	284(30.1b)
Smart Start audit .....	284(19.1)
<b>State Bar, North Carolina</b>	
Center for Death Penalty Litigation funds.....	284(13.10)
Disciplinary Hearing Commission — <i>see</i> Disciplinary Hearing Commission of the State Bar	
Subpoena authority .....	116(2)
<b>State Buildings</b> — <i>see</i> Buildings	
<b>State Bureau of Investigation (SBI)</b> — <i>see</i> Law Enforcement	
<b>State Capital Facilities Finance Act</b> .....	284(46.2)–(46.4d)
<b>State Controller</b>	
Appropriations	
Current operations .....	284(2.1)
Data processing, debt collection, E-commerce .....	284(27.1b)
Disaster Relief Fund transfers for General Fund appropriations .....	284(2.2d)

**State Controller—continued**

Health and Wellness Trust Fund transfers for General Fund appropriations.....	284(2.2c)
ITS infrastructure maintenance agreement pilot project .....	284(21.2a)–(21.2b)
Overpayments audit.....	284(27.1a)–(27.1e)
Repairs and Renovations Reserve Account transfer of unreserved credit balance .....	284(2.2f)
Review and evaluation of budget practices .....	284(6.2Aa)–(6.2Ab)
Salary .....	284(30.3)
Savings Reserve Account transfers .....	284(2.2e)
Tobacco Trust Fund transfers for General Fund appropriations .....	284(2.2b)
Wireless 911 fund reallocation .....	416(29a)–(29b)
Wireless Fund transfers for General Fund appropriations .....	284(2.2h)
<b>State Disability Income Plan, the State Death Benefit Plan, and the Separate Insurance Benefits Plan for Law Enforcement Officers, Study Commission on—Created.....</b>	<b>284(30.20a)–(30.20m)</b>
<b>State Employees</b>	
Additional teacher positions for second grade .....	284(7.12a)–(7.12b)
After-school services for at-risk children coordinator position .....	284(5.1m)
Annual leave bonus.....	284(30.12Ba)–(30.12Bb)
Child welfare services staff training.....	304(4.2), (7.1)
Clerks of Court personnel flexibility .....	284(30.14B)
Compensation bonus.....	284(30.12Aa)–(30.12Ab), (30.13a)–(30.13b), (30.14a)–(30.14e)
Computer crimes positions transfers .....	284(14.8)
Contracted Corrections medical positions conversion .....	284(16.8a)–(16.8b)
Corrections security staffing formulas .....	284(16.4a)–(16.4c)
DOR fee supported positions.....	284(23.2)
Ferry employee positions from tolls.....	284(29.15)
Incident Management Assistance Patrol Program permanent positions.....	284(29.16)
Information technology agency liaison .....	153(1b)
Leave sharing.....	9
Limit participation in UNC Optional Retirement Plan.....	356
Parental Savings Trust Fund payroll deduction.....	224
Positions/programs eliminated for savings.....	284(13.1a)–(13.1b)
Reserve for compensation increases.....	284(2.1)
Return of overpayments by persons in State-supported positions.....	263
Shared leave.....	284(30.1Aa)–(30.14Ac)
Staffing reorganization and reduction for Parole Commission.....	284(16.21)
Teachers' and State Employees' Comprehensive Major Medical Plan (TSECMMP) —see Insurance	

<b>State Health Coordinating Council—State Medical Facilities Plan</b>	
excluded from definition of a rule .....	229
<b>State Personnel Act</b> .....	284(17.6)
<b>State Personnel Commission</b>	
Leave sharing .....	9
Shared leave for State employees .....	284(30.1Aa)–(30.14Ac)
<b>State Personnel, Office of</b>	
Director's salary .....	284(30.3)
High-level officers compensation study .....	284(30.15)
<b>State Psychiatric Hospital Finance Act</b> .....	314
<b>State Symbols</b>	
Carolina Lily official wildflower .....	426
Folk moot USA official State international festival .....	315
<b>State Treasurer</b>	
Appropriations	
Current operations .....	284(2.1)
Unclaimed property program .....	284(28.5)
Health and Wellness Trust Fund	
Transfers for General Fund appropriations .....	284(2.2c)
Legislative Retirement System transfer of service	
study .....	284(30.18i)
Medicaid disproportionate share receipt disposition .....	284(10.21a)–(10.21b)
Reports — <i>see</i> that heading	
Retirement Systems Division staffing analysis	
follow-up .....	284(28.4a)–(28.4b)
Salary .....	284(30.1b)
Subject to Executive Budget Act .....	284(28.2a)–(28.2b)
<b>State Veterinarian—contagious animal disease provisions</b>	
sunset extension .....	6
<b>Statesville, City of</b>	
Iredell County Children's Museum grassroots science	
program grant-in-aid .....	284(11.1a)
Tree clear-cutting limits prior to development .....	246
<b>Statewide Benefit Committee to Provide a Menu of Portable</b>	
<b>Supplemental Benefits for all State Employees, Study</b>	
<b>Commission on Establishment of a—created</b> .....	284(30.21a)–(30.21h)
<b>STDs (Sexually Transmitted Diseases)—<i>see</i></b>	
Diseases; Public Health	
<b>Storage Systems</b>	
Leaking petroleum underground storage tanks	
Cost-effective cleanup requirement .....	352(1)–(2), (4), (9)
Funds .....	284(11.4a)–(11.4f)
Funds use .....	352(3), (5)
Mixed contaminant cleanup .....	352(9)
Program study .....	352(12a)–(12b)
Reporting requirement changes .....	340(2)
Testing requirements .....	352(11)
<b>Students—<i>see</i> Education</b>	

## Studies

Administration Department advocacy programs .....	284(18.2)
Bogue Banks shore protection .....	284(31.2a)
Budget process financial management practices .....	284(6.12b)
Commercial turtle production.....	284(10A.1)
Consolidated corporate income tax returns .....	349(9)
Criminal record checks fee adjustment .....	284(14.5b)
Dispute settlement centers study .....	284(13.15a)–(13.15b)
Driver education privatization .....	284(29.7)
Duplication of Smart Start services .....	284(10.38i)
Electronic monitoring outsourcing costs and underutilization.....	284(16.14)
Electronic notarization.....	233(4)
Evaluate water quality and endangered species protection in Swift Creek.....	433(3)
Film industry feasibility.....	284(9.5)
Global TransPark Development Commission board structure .....	284(12.8f)
High school students in college level courses .....	284(7.36)
High-level officers compensation.....	284(30.15)
High-priority school initiatives evaluation .....	284(7.10a)–(7.10c)
Highway Trust Fund.....	284(29.12c)
Impact of acquisition of land for conservation on local tax revenues .....	284(11.7a)– (11.7b)
Information technology operation centralization analysis and plan for DHHS .....	284(10.8Aa)–(10.8Ac)
Information technology security assessment.....	153(1)
Interstate high-speed rail compact study .....	284(29.19b)
IT budget structure review.....	284(21.1)
Leaking petroleum underground storage tank program .....	352(12a)–(12b)
Legacy information technology systems analysis and modernization plan .....	172
Legislative Retirement System transfer of service study .....	284(30.18i)
License plate issues.....	424(7)
Medicaid program.....	284(6.14Aa), (6.14Ac)
Mobile medical operating room .....	284(16.7)
Moped identification tag.....	397(6)
Neuse River Basin feasibility .....	284(31.2a)
Nondischarge animal waste permits .....	28(2)
North Carolina Manual distribution and sale .....	284(24.2)
Offender fees collection.....	284(16.15)
Outdoor advertising amortization ordinances.....	432(2)
Probation/parole caseloads .....	284(16.18a)–(16.18c)
Projected water management feasibility studies.....	284(31.2a)
Public defenders.....	284(13.6)
Review and evaluation of budget practices .....	284(6.2Aa)–(6.2Ab)
Safety rules for activity buses.....	284(7.25c)



**Studies—continued**

Sale and lease-back of State-owned property .....	284(6.8f)
School nurse service standards review .....	284(7.32)
State Disability Income Plan, the State Death Benefit Plan, and the Separate Insurance Benefits Plan for Law Enforcement Officers .....	284(30.20c)
Statewide Benefit Committee establishment .....	284(30.21c)
Student population growth issues .....	284(7.29)
Substance abuse services assessing agencies .....	396(2)
Surf City/North Topsail beach protection .....	284(31.2a)
Teacher certification .....	284(7.39)
Project delivery process study .....	284(29.21)
Transportation project delivery process .....	284(29.21)
Tuition waivers .....	230
Unique mobility needs of urban areas study .....	383(5d), (5m)
Work over welfare demonstration program in Cabarrus County evaluation .....	188

**Substance Abuse**

Buprenorphine dispenser registration .....	335
Certificate of need chemical dependency treatment definitions .....	390(1)–(2)
Community-based services block grant funds .....	284(5.1a)
Comprehensive treatment services program for children block grant funds .....	284(5.1o)
Detoxification facilities shall not deny treatment on ability to pay .....	390(3)
Drug screening of criminal defendants for chemical dependency .....	141
Drug treatment court program case manager cost savings .....	284(13.4a)–(13.4b)
Family Focus block grant funds .....	284(5.1a)
Impaired veterinary personnel program agreements .....	139
Mental health, developmentally disabled, and substance abuse facilities licensure fees .....	284(34.8a)–(34.8b)
Pregnant women and women with children block grant funds .....	284(5.1a)
Private DWI offender services facility .....	396(1), (3)–(4)
Residential services for women with children .....	284(5.1a)
Services for those at risk for HIV block grant funds .....	284(5.1a)
Services for women with children .....	284(5.1j)
Services to children and adolescents block grant funds .....	284(5.1a)
Substance abuse prevention services reporting .....	284(10.11)
Substance abuse services assessing agencies study .....	396(2)

**Sunset Beach, Town of—eminent domain authority for beach**

erosion, flood control, hurricane protection, and beach access .....	282
--	-----

**Sunset Harbor, Town of—incorporation .....** 317

<b>Surety and Fidelity</b>	
Accountings in testamentary trusts.....	261
Affidavit required of bail bondsmen .....	148
Judgment bonding.....	19
Petroleum underground storage tank cleanup bond requirement.....	352(3), (5)
Public construction contract surety bonds designation of surety company, agent, broker prohibited.....	212(27)
Self-Insurance Guaranty Association amendments.....	115
<b>Surry County</b>	
Mount Airy, City of — <i>see</i> that heading	
Sheriff vacancy .....	39
<b>Swain County</b> —magistrate authorization adjustment .....	284(13.8)

## T

**TANF (Temporary Assistance to Needy Families)**—*see* Welfare

**Tar River**

Evaluate water quality and endangered species protection in Swift Creek.....	433(3)
Swift Creek/Sandy Creek reclassification .....	433(1)–(2), (4)

**Task Forces** (*see also* Commissions, Committees,  
Councils and Boards)

Cervical Cancer Elimination Task Force — <i>see</i> that heading	
Justus-Warren Heart Disease and Stroke Prevention Task Force — <i>see</i> that heading	
More-At-Four Pre-K Task Force — <i>see</i> that heading	

**Taxes and Assessments**

Equalize insurance tax rates on Article 65 corporations .....	284(43.1)–(43.4)
Estate tax	
Adjustment .....	284(37A.4)–(37A.6)
Technical corrections and conforming changes.....	416(1)
Excise tax	
Certificate of registration holder liable for tax.....	416(17)
Food tax	
Allocation of tax.....	416(27a)–(27b), (28)
Fuels	
Motor fuel tax change .....	349(10.1)–(10.16)
General Assembly cannot contract away its taxing power .....	416(12)
Income tax, corporate	
Consolidated returns study .....	349(9)
Dividend deduction change.....	349(1.1)–(1.3)
RandD credit eligibility.....	349(8.1)–(8.2)
Retailer leasing motor vehicles may pay gross receipts tax .....	5
Tax credits — <i>see</i> that entry this heading	
Technical corrections and conforming changes.....	416(5a)–(5j)

**Taxes and Assessments—continued**

Income tax, individual	
Bonus depreciation adjustment .....	284(37A.2)–(37A.3)
Continue use tax of line item on income tax form.....	284(44.1)
Tax credits — <i>see</i> that entry this heading	
Temporarily maintain upper income rate.....	284(39.1)–(39.2)
Intangibles tax	
Technical corrections and conforming changes.....	416(15)
Internal Revenue Code reference update.....	284(37A.1)
Legal deadlines falling on a holiday clarification .....	337
Local government hold harmless adjustment .....	284(37.1)
Motor vehicle tax	
Durham.....	329(1), (3)
Nonpayment penalty may be waived.....	416(10)
Occupancy tax	
Additional tax for Mount Airy .....	281(12)
New Hanover County.....	166
Tax revisions for Blowing Rock .....	281(13)–(14)
Property tax	
Collection of unpaid water and sewer service fees in certain cities and counties .....	270
Dam repair assessments period extended for Pinehurst.....	259(2)
Eden annexation contract negotiation authority.....	316
Exclusion for property used to reduce cotton dust clarification .....	284(43A.1)– (43A.2)
Impact of acquisition of land for conservation on local tax revenues study .....	284(11.7a)–(11.7b)
Internet-based property tax certification procedure alternative.....	399
No recordation of deed without certificate of no delinquent taxes	
Duplin County.....	354(3)
Gates County.....	189(6)
Hyde County .....	72
Reappraisal delay for Robeson County.....	201
Release or refund due to erroneous inclusion of well/septic system.....	250
Tax rate publication in revaluation years .....	264
Technical corrections and conforming changes.....	416(20), (26)
Waived deadlines, fees, and penalties for deployed military personnel .....	300
Revenue Code reference changes .....	25
Sale of seized property reporting requirement .....	349(2)
Sales and use tax	
Allocation of tax.....	416(27a)–(27b), (28)
Conform to streamlined sales and use tax agreement.....	284(45.1)–(45.12)
Continue use tax of line item on income tax form.....	284(44.1)

**Taxes and Assessments—continued**

Sales and use tax—continued

Distribution based on taxpayer data.....	349(5)
Eliminate alcohol discounts .....	284(45A2a)–(45A.2b)
Eliminate tobacco discounts.....	284(45A.1a)–(45A.1d)
Exemption for State agencies.....	431
Highway Trust Fund transfer to account for lost sales tax revenue .....	284(2.2j)
Hold harmless calculation simplified.....	349(6)
Manufactured and modular homes.....	400(13)–(16)
Refunds for school board cooperatives .....	431(2)
Scrap tire, white goods, dry-cleaning solvent tax cannot be applied to nontaxable sales.....	416(19a)–(19c)
Technical corrections and conforming changes.....	416(13), (14a)–(14b), (16a)–(16b), (18a)–(18e), (21)–(23), (24a)–(24c)
Temporarily maintain rate.....	284(38.1)
Transfer for Wildlife Resources Commission compensation bonus.....	284(30.15A)
Tax collector appointed office in Madison County .....	123

Tax credits

Bill Lee Act modifications .....	416(2)
Conform child tax credit to federal credit.....	284(39B.2)–(39B.3)
Historic rehabilitation	
Certification .....	284(35A.1)–(35A.2)
Pass-through entity allocations .....	415 (2)
Sunset extended .....	415 (1)
Technical corrections and conforming changes .....	416(4a)–(4d)
Low income housing tax credit	
Technical corrections and conforming changes .....	416(1), (3)
Qualified business investments tax credits	
expansion .....	414(1)–(6)
State ports tax credit extension .....	414(7)–(8)
Tax credit breakdown on filling form .....	415 (3)
Technical corrections and conforming changes.....	416(7)–(8)

Tax exemptions

Sales and use tax exemption for State agencies.....	431
---	-----

Tax refunds

Sales and use tax refund for school board cooperatives .....	431(2)
Technical corrections and conforming changes .....	416

Unemployment —*see* Insurance

**Taxis—drug test for taxicab driver applicants .....** 65

**Teachers and Education Administrators**

Additional teacher positions for second grade .....	284(7.12a)–(7.12b)
Career teacher probationary period shortened.....	302
Job sharing facilitation.....	358
Lateral, out-of-state, and initial certification of teachers .....	284(7.20c)–(7.20e)
Mentor teacher funds use.....	284(7.30a)

**Teachers and Education Administrators—continued**

Mentor training standards .....	284(7.30b)
Prospective teacher scholarship funds .....	284(8.8)
Public school staff pay during military duty .....	301
Recruitment initiatives funds .....	284(7.19)
Salaries and benefits — <i>see</i> that heading	
School principal contract term .....	291
State agency teachers' compensation .....	284(30.14C)
Teacher certification study .....	284(7.39)
Teacher recruitment and retention initiatives .....	284(7.20a)–(7.20h)
Teachers' and State Employees' Comprehensive Major Medical Plan (TSECMMP) — <i>see</i> Insurance	
Teaching certificate immediate revocation for certain crimes .....	408
Visiting international faculty funds .....	284(7.41)
<b>Teachers' and State Employees' Comprehensive Major Medical Plan (TSECMMP)—<i>see</i> Insurance</b>	
<b>Teachers' and State Employees' Retirement System Board of Trustees—Legislative Retirement System transfer of service study .....</b>	<b>284(30.18i)</b>
<b>Telecommunications</b>	
Long-distance service regulatory oversight .....	91(1)
Pricing plan changes .....	91(2)
Technical corrections and conforming changes .....	416(16a)–(16b)
Telecommunications relay service surcharge applied to wireless .....	341
Telephone solicitation restrictions .....	411
Universal service provider designation rules .....	99
Wireless 911 fund reallocation .....	416(29a)–(29b)
<b>Telephone—<i>see</i> Telecommunications</b>	
<b>Testing</b>	
Alternative competency test for high school .....	275
Animal disease diagnostic testing fees increases reflected in budget .....	284(35.3a)
Blood analysis report as basis for revoked license .....	104
Chiropractic licensure examination changes .....	155
Drug screening of criminal defendants for chemical dependency .....	141
Drug test for taxicab driver applicants .....	65
Lead poisoning prevention .....	150
Military exempt from drivers license vision test .....	152(2)
Pap smear analysis fee .....	284(34.13a)–(34.13b)
Petroleum underground storage tank testing requirements .....	352(11)
Rape kit analyses by private vendor .....	284(14.9)
Rape kits priority .....	284(14.7)
Real estate licensure .....	361(1)

<b>Textiles</b> —Hosiery Technology Center funds .....	284(8.7), (12.6b)
<b>Therapeutic Recreation</b> —out-of-state physicians may practice at therapeutic recreation camps .....	109
<b>Timber</b> — <i>see</i> Forest Products	
<b>Titles</b> —Surrender of manufactured home title .....	400(1)–(4)
<b>Tobacco</b>	
Eliminate tobacco discounts .....	284(45A.1a)–(45A.1d)
Health and Wellness Trust Fund — <i>see</i> Funds and Accounts	
Nonsmoking areas at universities .....	292
Phase II tobacco settlement payments to an estate .....	295
Public school building prohibition .....	421
Tobacco Trust Fund — <i>see</i> Funds and Accounts	
<b>Torts</b>	
Accounting of funds distribution from personal injury recovery .....	309
Insurance policy limit disclosure prior to filing suit .....	307(1)
Judgment bonding .....	19
Litigation expenses to be paid by agencies .....	284(14.3)
Litigation reserve funds expenditure by State Board of Education .....	284(7.22)
Medication error reduction steps for nursing homes .....	393
Prelitigation mediation of insurance claims .....	307(2)
Settlement of small claims against DHHS institutions .....	285
Wilmington settlement of claims by City Manager .....	41
<b>Towing</b> — <i>see</i> Motor Vehicles	
<b>Traffic Enforcement</b> — <i>see</i> Law Enforcement	
<b>Trailers</b> — <i>see</i> Manufactured Homes; Motor Vehicles	
<b>Transportation, Department of</b>	
511 Traveler information system automation .....	184(4)
Agricultural vehicle escort and driver training program implementation .....	383(7)
Appropriations	
Current operations .....	284(2.1)
Currituck-Corolla ferry service funds .....	284(29.20)
Highway Fund .....	284(3.1)
Availability statement .....	284(3.1)
Highway Trust Fund .....	284(4.1)
Administration allocation reduction .....	284(29.4)
Federal-aid highway funds matching funds .....	284(29.22)
Local and metropolitan planning organization funds .....	284(29.14a)–(29.14c)
Medium-custody road crew compensation transfer .....	284(16.12a)–(16.12b)
Small urban contingency funds .....	284(29.2)
Transportation services for trade shows .....	284(29.17)
Unsafe/obsolete facilities .....	284(29.10)
Attraction logo signs allowed .....	184(2)–(3)
Contract maintenance resurfacing program funds use .....	112(1)
Environmental permit requirement on projects .....	284(29.6)

**Transportation, Department of—continued**

Excess weight/oversize fees funds use .....	284(29.5)
Ferry employee positions from tolls .....	284(29.15)
Guideway transit safety responsibility .....	184(1)
High occupancy lanes authorized .....	184(5)
Highway Fund	
Anticipated revenues .....	284(29.1a)
Highway Trust Fund	
Anticipated revenues .....	284(29.1b)
Cash balances for crucial needs .....	383
Federal-aid highway funds matching funds .....	284(29.22)
Repayment of transferred funds .....	383(6)
Study .....	284(29.12c)
Transfer to account for lost sales tax revenue .....	284(2.2j)
Urban loop definition change .....	284(29.11a)–(29.11b)
Incident Management Assistance Patrol Program	
permanent positions .....	284(29.16)
Moving ahead transportation initiative .....	383
Productivity pilot programs .....	284(29.3)
Rail corridor subdivisions definition .....	284(29.23a)–(29.23b)
Reports — <i>see</i> that heading	
Right-of-way encroachment allowed for private	
bridges .....	267
Secondary road paving funds use for safety	
improvements .....	112(2)
Secretary’s salary .....	284(30.2)
Statewide voter registration system .....	226(7b)
Transportation services for trade shows .....	284(29.17)
Unsafe/obsolete facilities funds .....	284(29.10)

**Transportation Oversight Committee, Joint**

**Legislative**

License plate issues study .....	424(7)
Moped identification tag study .....	397(6)
Project delivery process study .....	284(29.21)

**Transylvania County**

Hunting from public right-of-way prohibited .....	119(1)
Written permission required to hunt on private land .....	119(2)

**Traumatic Brain Injury Advisory Council—created .....** 114

**Travel and Tourism**

511 Traveler information system automation .....	184(4)
Occupancy tax	
Additional tax for Mount Airy .....	281(12)
New Hanover County .....	166
Tax revisions for Blowing Rock .....	281(13)–(14)
Tourism Development Authorities	
Blowing Rock .....	281(13)–(14)
Tourism promotion funds .....	284(12.3)

## **Tribal Government**

Indian Cultural Center Board appointments.....	260
Lumbee Tribe clarification .....	54(1)
Meherrin Tribe recognition.....	54(2)
Occaneechi Band of the Saponi	
Recognition .....	54(2)
Representative on Indian Cultural Center Board .....	55
Sappony designation.....	87
<b>Troy, Town of</b> —quick take for redevelopment area .....	328(1a)–(1b)
<b>Trucking</b> — <i>see</i> Commerce; Motor Vehicles	
<b>Trust Administration Act</b> .....	261
<b>Trusts</b>	
Accountings in testamentary trusts.....	261
Artistic, creative, and athletic contracts for minors.....	207
Irrevocable trusts clarification .....	93
Settlor power to relieve revocable trust trustee of duties, restrictions, and liabilities.....	225
Surviving spouse elective share clarification .....	296
Technical corrections and conforming changes .....	221
Uniform Principal and Income Act .....	232
<b>TSECMMP (Teachers' and State Employees' Comprehensive Major Medical Plan)</b> — <i>see</i> Insurance	
<b>Tuition</b>	
Application process for financial assistance.....	52
Community college tuition assistance for armed forces personnel.....	284(8.16a)–(8.16b)
Nonprofit sponsorship of student .....	284(8.16Aa)–(8.16Ab)
Nurses license plate to support nursing scholarships .....	11
State grants for students in private institutions.....	429
Transfer from Escheat Fund for financial aid.....	284(9.2a)–(9.2d)
Tuition grant for State university attendees from School of Science and Math .....	284(9.4a)–(9.4b)
Tuition waivers .....	230
Veterans scholarship funding from Escheat Fund.....	284(18.5a)–(18.5c)

## **U**

### **UNC Board of Governors**

#### **Appropriations**

Agricultural research and cooperative extension matching funds.....	284(9.9)
Area Health Education Center funds.....	284(9.7)
Comprehensive articulation agreement evaluation transfer.....	284(8.12h)
Current operations .....	284(2.1)
Flexibility guidelines .....	284(9.1)
TEACCH program funds .....	284(9.8)
Transfer from Escheat Fund for financial aid .....	284(9.2a)–(9.2d)
Tuition grant for attendees from School of Science and Math .....	284(9.4a)–(9.4b)



<b>UNC Board of Governors—continued</b>	
Bond project modification .....	284(9.3a)–(9.3g)
Comprehensive articulation agreement evaluation.....	284(8.12a)–(8.12h)
Construction and capital improvements without appropriations authorization.....	360
EPA compensation.....	284(30.12a)–(30.12b)
Expenditure benchmark increase for purchasing contracts.....	312
Film industry feasibility study.....	284(9.5)
Land transfers for millennium campuses at UNC-Greensboro and NC A & T .....	284(6.20)
Legal representation reimbursement .....	284(14.4)
Repairs and Renovations Reserve funds expenditures.....	284(31.5)
Reports — <i>see</i> that heading	
Special obligation bonds revision.....	357
Teacher certification study .....	284(7.39)
<b>Unemployment—<i>see</i> Employment; Insurance</b>	
<b>Unemployment Insurance—<i>see</i> Insurance</b>	
<b>Uniform Athlete Agents Act.....</b>	375
<b>Uniform Principal and Income Act .....</b>	232
<b>Union County</b>	
Monroe, City of — <i>see</i> that heading	
Satellite annexation by cities .....	321
Waxhaw, Town of — <i>see</i> that heading	
<b>Unique Mobility Needs of Urban Areas, Blue Ribbon Commission to Study the—created .....</b>	383(5a)–(5p)
<b>University of North Carolina</b>	
Appalachian State University	
Athletic facilities .....	360(2)
Parking deck.....	360(2)
Parking regulation on certain streets .....	213
Area Health Education Center funds .....	284(9.7)
Board of Governors — <i>see</i> UNC Board of Governors	
Bond project modification .....	284(9.3a)–(9.3g)
Budget flexibility guidelines.....	284(9.1)
Community revitalization grant distribution program.....	284(5.2h)
Competitive bids on beverage contracts.....	284(6.15a)–(6.15b)
Construction and capital improvements without appropriations authorization.....	360
East Carolina University	
Residence halls.....	360(2)
Elizabeth City State University	
Bond project modification.....	284(9.3a), (9.3a1)
Challenge grants from Distinguished Professors Endowment Trust Fund.....	293
Joint pharmacy program.....	284(9.3a1)
Expenditure benchmark increase for purchasing contracts .....	312

**University of North Carolina—continued**

Fayetteville State University	
Challenge grants from Distinguished Professors	
Endowment Trust Fund.....	293
Financial aid funds.....	284(9.2a)–(9.2d)
Hazing prohibition.....	299
HIPAA implementation.....	284(6.7a)–(6.7c)
Limit participation in Optional Retirement Plan.....	356
Nonsmoking areas.....	292
North Carolina Agricultural and Technical University	
Agricultural research and cooperative extension	
matching funds.....	284(9.9)
Challenge grants from Distinguished Professors	
Endowment Trust Fund.....	293
Land transfer for millennium campus.....	284(6.20)
Student union renovation.....	360(2)
North Carolina Central University	
Bond project modification.....	284(9.3b), (9.3b1)
Challenge grants from Distinguished Professors	
Endowment Trust Fund.....	293
Parking deck.....	360(2)
North Carolina School of Science and Mathematics	
Tuition grant for State university attendees.....	284(9.4a)–(9.4b)
North Carolina School of the Arts	
Board of Trustees membership.....	215
Challenge grants from Distinguished Professors	
Endowment Trust Fund.....	293
Film industry feasibility study.....	284(9.5)
North Carolina State University	
Community center.....	360(2)
Partners V Building.....	360(2)
Residence halls.....	360(2)
Reynolds Coliseum.....	360(2)
Structural pest control training facility capital	
financing.....	284(46A.3)
Student fitness center.....	360(2)
Thompson Theater and music center.....	360(2)
Track, softball, soccer complex.....	360(2)
Purchasing flexibility.....	228
Pyrotechnic display regulation.....	298
Reports — <i>see</i> that heading	
School of Science and Mathematics, Board of Trustees	
Appointments and membership.....	57
Special obligation bonds revision.....	357
Tuition grant for State university attendees from School	
of Science and Math.....	284(9.4a)–(9.4b)
Tuition waivers.....	230

**University of North Carolina—continued**

UNC-Asheville	
Bond project modification.....	284(9.3c)
Challenge grants from Distinguished Professors	
Endowment Trust Fund.....	293
UNC-Chapel Hill	
Ackland Art Museum.....	360(2), (6)
Beard Hall.....	360(3)
Botanical garden visitor center.....	360(2)
Burnett-Womack building.....	360(3)
Cobb residence hall.....	360(2)
Cogeneration turbine improvements.....	360(3)
Global and international studies facility.....	360(3)
Infrastructure improvements.....	360(2)
ITS building.....	360(2)
Manning steam plant.....	360(3)
McColl Building.....	360(2)
Parking facilities.....	360(2)
Printing services.....	360(2)
Rizzo Center.....	360(2), (6)
Science complex.....	360(3)
Student family housing.....	360(2), (6)
TEACCH program funds.....	284(9.8)
YMCA renovation.....	360(2)
UNC-Charlotte	
Baseball stadium improvements.....	360(2)
Student union.....	360(2)
UNC-Greensboro	
Elliot University Center Library Connector.....	360(2)
Exercise track.....	360(2)
Gove health center.....	360(2)
Land transfer for millennium campus.....	284(6.20)
Residence halls.....	360(2)
Softball field and stadium complex.....	360(2)
UNC-Pembroke	
Auxiliary services building.....	360(3)
Bond project modification.....	284(9.3d)
Challenge grants from Distinguished Professors	
Endowment Trust Fund.....	293
Recreational, athletic, physical education facilities.....	360(3)
UNC-Wilmington	
Plumbing exemption for bleacher addition to existing field.....	239
Waived deadlines, fees, and penalties for deployed military personnel.....	300
Western Carolina University	
Challenge grants from Distinguished Professors Endowment Trust Fund.....	293
Dodson cafeteria.....	360(2)
Parking deck.....	360(2)
Residence hall.....	360(2)
Softball field and stadium.....	360(2)

**University of North Carolina—continued**

Winston-Salem State University	
Bond project modification.....	284(9.3e), (9.3f)
Challenge grants from Distinguished Professors	
Endowment Trust Fund.....	293
<b>Urban Development</b>	
Small urban contingency funds .....	284(29.2)
Unique mobility needs of urban areas study .....	383(5d), (5m)
<b>Utilities</b>	
Acquisition of property for future utilities lines by	
certain cities.....	74
Clean Smokestack Act public utility sanitary landfill	
exemption .....	37
Electric membership corporation proxy vote sunset	
removed .....	24
Guaranteed energy savings contracts .....	138
Public utilities regulatory fee.....	284(32.1a)–(32.1c)
Request for information for energy management services.....	284(6.13)
Sunset on secondary supplier service to municipalities	
removed .....	24
Wake Forest town labor for construction of electric	
distribution circuits and substation allowed .....	32
<b>Utilities Commission</b>	
Chairman's salary.....	284(30.3)
Contiguous premises definition relating to manufactured	
home parks.....	173
Long-distance telecommunications service regulatory	
oversight .....	91(1)
Members' salaries.....	284(30.3)
Regulatory fee.....	284(32.1a)–(32.1c)
Telecommunications pricing plan changes.....	91(2)
Telecommunications relay service surcharge applied to	
wireless .....	341
Telephone solicitation restrictions.....	411
Universal service provider designation rules.....	99

**V**

**Vaccinations—see** Public Health

**Vance County**

    Henderson, City of —*see* that heading

    John H. Kerr Reservoir operations evaluation..... 284(31.2a)

**Veterans—see** Armed Forces

**Veterinary Medical Board—impaired veterinary personnel**

    program agreements..... 139

**Victims' Rights**

    Rape crisis/victims' services program block grant funds ..... 284(5.1a) |

Victims Assistance Network report..... 284(17.5)

**Virginia-North Carolina High-Speed Rail Commission**

Interstate high-speed rail compact study ..... 284(29.19a)  
Re-enacted ..... 284(29.19a)–(29.19b)

**Vital Records**—*see* Records

**Vocational Education**

Apprenticeship Program funds ..... 284(12.6b)  
Focused industrial training funds ..... 284(8.15)  
Occupational continuing education and focused industrial  
training funds ..... 284(8.4)  
State education and training program tracking system funds ..... 284(12.6b)  
Summer school funding for high-needs industries ..... 284(8.5)  
Vocational education funding ..... 284(7.37)

**Vocational Rehabilitation**—community college financial

assistance for students with disabilities ..... 385

**Volunteers**—files of local education boards are private ..... 353

**Voter Registration** (*see also* Elections)

Address confidentiality program not available to jury  
commission ..... 278(6)  
Register by mail ..... 226(16)  
Statewide voter registration system ..... 226(2)–(7b), (9)–(10)

**Voting**—*see* Elections

**W**

**Wadesboro, Town of**

Mayor's term ..... 190(1)  
Municipal elections ..... 190(2)

**Wake County**

Apex, Town of —*see* that heading  
Cary, Town of —*see* that heading  
Garner, Town of —*see* that heading  
Holly Springs, Town of —*see* that heading  
Mentor teacher pilot program ..... 284(7.30c)  
Raleigh, City of —*see* that heading  
Tree clear-cutting limits prior to development ..... 128  
Urban loop definition change ..... 284(29.11a)–(29.11b)  
Wake Forest, Town of —*see* that heading

**Wake Forest, Town of**—town labor for construction of

electric distribution circuits and substation allowed ..... 32

**Warren County**

John H. Kerr Reservoir operations evaluation ..... 284(31.2a)  
PCB landfill cleanup ..... 284(11.3a)–(11.3b)

**Waste Management**

Chronic refuse and debris violators annual notice for  
Durham ..... 133  
Clean Smokestack Act public utility sanitary landfill  
exemption ..... 37  
Garbage and trash ordinance chronic violator  
notification for Winston-Salem ..... 120

<b>Waste Management—continued</b>	
Hazardous waste fee .....	284(35.2a)–(35.2c)
Nondischarge animal waste permits	
Expiration date extensions .....	28(1)
Study.....	28(2)
Warren County landfill PCB cleanup.....	284(11.3a)–(11.3b)
<b>Watauga County</b>	
Add and remove certain lands from the State Nature and Historic Preserve.....	234
Beech Mountain, Town of — <i>see</i> that heading	
Blowing Rock, Town of — <i>see</i> that head	
<b>Water and Sewer Systems</b>	
Collection of unpaid water and sewer service fees in certain cities and counties.....	270
Community water system water supply plans.....	387(1)
Contiguous premises definition relating to manufactured home parks.....	173
Release or refund of property tax due to erroneous inclusion of well/septic system .....	250
Safe Drinking Water Act matching funds .....	284(11.10)
Setoff debt collection for sewer and water authorities .....	333
Water conservation promotion .....	173
<b>Water Resources</b> ( <i>see also</i> Lakes and Rivers)	
Catawba River Basin water quality rules extension .....	340(5)
Coastal recreation waters monitoring rules .....	149
Currituck Sound water management study.....	284(31.2a)
Deep Creek watershed management.....	284(31.2a)
Environmental restoration projects.....	284(31.2a)
Evaluate water quality and endangered species protection in Swift Creek.....	433(3)
John H. Kerr Reservoir operations evaluation.....	284(31.2a)
Nondischarge animal waste permit expiration date extensions .....	28(1)
Planning assistance for communities.....	284(31.2a)
Projected feasibility studies .....	284(31.2a)
Swift Creek/Sandy Creek reclassification .....	433(1)–(2), (4)
Water conservation promotion .....	173
Water resource development project funds .....	284(31.2a)–(31.2d)
<b>Waxhaw, Town of—annexation</b> .....	273(2a)–(2b)
<b>Wayne County</b>	
Board of Commissioners staggered terms .....	50
Goldsboro, City of — <i>see</i> that heading	
<b>Waynesville, Town of—mailed rezoning notice exemption</b> .....	3
<b>Weapons</b>	
Concealed handgun fee reduction for retired law enforcement .....	379
Confiscation and disposal of deadly weapons.....	378(5)
Handgun use in felony enhancement.....	378(1)–(2)
Pistol use in hunting.....	160

**Weapons—continued**

Reciprocal concealed handgun permits .....	199
Records check for concealed handgun permits report.....	284(14.5a)
Surrender of firearms in domestic violence cases .....	409(1)
Weapons permitted on Johnston Community College property for hunting with written permission.....	217

**Welfare**

Child care subsidy rates .....	284(10.35a)–(10.35h)
Medicaid — <i>see</i> that heading	
Medicare enrollment required for Medicaid.....	284(10.27)
Special Assistance In-Home Program funds .....	284(10.51a)–(10.51c)
State/County Special Assistance .....	284(10.52a)
TANF (Temporary Assistance to Needy Families)	
After-school services for at-risk children block grant funds.....	284(5.1a)
Automation projects block grant funds .....	284(5.1a)
Block grant funds .....	284(5.1a), (5.1i)
Block grant transfer for child care subsidies.....	284(5.1a)
Block grant transfer for children's services.....	284(5.1a)
Cabarrus County waiver plan changes .....	284(10.49b)
Caseload reduction plan changes .....	284(10.49b)
Child care subsidies block grant funds.....	284(5.1a)
Child caring institutions transfer .....	284(5.1a)
Child welfare training block grant funds .....	284(5.1a)
Decreases in federal fund availability .....	284(5.1b)
Electing counties .....	284(10.49c)–(10.49d)
Electing counties funds revert.....	284(10.50)
Enhanced Employee Assistance Program plan changes.....	284(10.49b)
Increases in federal fund availability .....	284(5.1c)
Individual development accounts block grant funds.....	284(5.1a)
Maternity homes block grant funds.....	284(5.1a)
NC fast implementation block grant funds .....	284(5.1a)
No-cost contract extensions allowed for nongovernmental grant recipients.....	284(5.1e)
Out-of-wedlock births reduction block grant funds.....	284(5.1a)
Pregnancy Prevention Coalition of NC block grant funds.....	284(5.1a)
Services for Families plan changes .....	284(10.49b)
Special children adoption fund block grant funds.....	284(5.1a)
State plan .....	284(10.49a)–(10.49d)
WCH-Teen Pregnancy Program block grant funds .....	284(5.1a)
Work central career advancement center block grant funds.....	284(5.1a)
Work Responsibility plan changes.....	284(10.49b)
Youth development programs block grant funds .....	284(5.1a)
YWCA Central Carolinas block grant funds .....	284(5.1a)

<b>Welfare</b> —continued	
Work First ( <i>see also</i> TANF this heading)	
Boys and Girls Clubs block grant funds .....	284(5.1a)
Cash assistance block grant funds .....	284(5.1a)
County block grant funds .....	284(5.1a)
Domestic violence services .....	284(5.1a), (5.11)
Income eligibility standards .....	284(10.19d)–(10.19e)
Reporting requirements eliminated .....	284(10.57)
Work over welfare demonstration program in	
Cabarrus County .....	188
<b>Wells</b> — <i>see</i> Water and Sewer Systems	
<b>Wentworth, Town of</b> —agricultural land exempt	
from zoning .....	330
<b>Western North Carolina Regional Economic Development</b>	
<b>Commission</b> — <i>see</i> Regional Economic Development	
Commission, Western North Carolina	
<b>Wildlife</b>	
Beaver damage control program funds .....	284(11.2)
Carolina Raptor Center grassroots science program	
grant-in-aid .....	284(11.1b)
Cervid (deer) regulation .....	344
Coastal habitat protection plan deadline .....	111
Commercial turtle production study .....	284(10A.1)
Coyote hunting in controlled preserves .....	96(1)
Coyote importation illegal .....	96(2)
Currituck Game Commission appointments .....	16
Electrofishing for catfish allowed in Columbus County .....	21
Evaluate water quality and endangered species protection	
in Swift Creek .....	433(3)
Nature centers and museums — <i>see</i> Museums	
Protection of animals civil remedy .....	208
Reptile and amphibian protection .....	100
<b>Wildlife Resources Commission</b>	
Cervid (deer) regulation .....	344
Protection of animals civil remedy .....	208
Reptile and amphibian protection .....	100
Sales tax transfer for compensation bonus .....	284(30.15A)
<b>Wilkes County</b>	
Board of Commissioners staggered terms .....	45
TANF electing county .....	284(10.49c)–(10.49d)
<b>Wilmington, City of</b>	
Area Health Education Center funds .....	284(9.7)
Cape Fear Museum grassroots science program	
grant-in-aid .....	284(11.1a)
Children's Museum grassroots science program	
grant-in-aid .....	284(11.1b)
Conditional zoning .....	162
Disclosure of police disciplinary records .....	238
Harbor deepening funds .....	284(31.2a)



<b>Wilmington, City of—continued</b>	
Harbor maintenance.....	284(31.2a)
Regional Film Commission funds .....	284(12.6Da)–(12.6Dc)
Settlement of claims by City Manager .....	41
State Museum of Aviation official location at Wilmington airport.....	363
<b>Wilson, City of</b>	
Imagination Station grassroots science program grant-in-aid .....	284(11.1a)
Opportunities Industrialization Center funds .....	284(12.12a)–(12.12c)
<b>Wilson County</b>	
Wilson, City of — <i>see</i> that heading	
<b>Winston-Salem, City of</b>	
Firemen's retirement fund .....	35
Garbage and trash ordinance chronic violator notification .....	120
Mentor teacher pilot program .....	284(7.30c)
North Carolina School of the Arts — <i>see</i> University of North Carolina	
School construction/repair contract flexibility .....	269
Sci Works Science Center grassroots science program grant-in-aid .....	284(11.1a)
Winston-Salem State University — <i>see</i> University of North Carolina	
<b>Wireless 911 Board—fund reallocation .....</b>	<b>416(29b)</b>
<b>Women</b>	
Cervical Cancer Elimination Task Force created .....	176
Cervical cancer screening coverage.....	186
Domestic violence — <i>see</i> that heading	
Exemption from disqualification of unemployment for domestic violence, sexual offense, or stalking .....	220(3)
Harriet's House report.....	284(16.17a)
Healthy mothers/healthy children block grants .....	284(5.1a)
High-risk maternity clinic services block grant funds.....	284(5.1a)
Limitations on State funds for abortions .....	284(10.54)
Maternal and child health hotline block grant funds .....	284(5.1a)
Maternity homes block grant funds .....	284(5.1a)
Maternity homes services .....	284(5.1r)
Notice of danger of alcohol to pregnancy requirement .....	339
Out-of-wedlock births reduction block grant funds .....	284(5.1a)
Ovarian cancer test coverage .....	223
Pap smear analysis fee .....	284(34.13a)–(34.13b)
Perinatal education and training block grant funds .....	284(5.1a)
Pregnancy Prevention Coalition of NC block grant funds .....	284(5.1a)
Pregnant women and children coverage under Medicaid.....	284(10.19c)
Pregnant women and women with children substance abuse block grant funds .....	284(5.1a)
Rape — <i>see</i> Crimes	
Rape crisis/victims' services program block grant funds .....	284(5.1a)
Residential substance abuse services for women with children.....	284(5.1a)

<b>Women—continued</b>	
Substance abuse services for women with children .....	284(5.1j)
Summit House report.....	284(16.17b)
WCH-Teen Pregnancy Program block grant funds.....	284(5.1a)
Women at Risk report.....	284(16.17c)
<b>Women, Council for</b>	
Domestic violence services for Work First families .....	284(5.11)
Rape crisis/victims' services program block grant funds .....	284(5.1a)
<b>Work Safety—see Safety</b>	
<b>Workers' Compensation—see Insurance</b>	
<b>Workers' Compensation Act.....</b>	156
<b>Wrightsville Beach, Town of—wheel locks authorized.....</b>	240

**Y**

<b>Yadkin County</b>	
Deep Creek watershed management.....	284(31.2a)
Jonesville, Town of — <i>see that heading</i>	
Yadkinville, Town of — <i>see that heading</i>	
<b>Yadkinville, Town of—wheel locks authorized.....</b>	240

**INDEX TO RESOLUTIONS  
2003 GENERAL ASSEMBLY  
REGULAR SESSION 2003**

**A**

<b>Adjournment</b> .....	31; 32
<b>Appointments</b>	
Confirmation of Governor's appointments to State Board of Education.....	13
Confirmation of Governor's appointment to Utilities Commission.....	16
Providing for a joint session to confirm Governor's appointments to State Board of Education.....	12
<b>Arends, Rev. Johann Gottfried</b> .....	27
<b>Aviation</b>	
Aviation Centennial Year .....	20
Honoring the Wright brothers.....	20
Joint session to commemorate the 100th anniversary of Wilbur and Orville Wright's first flight .....	17

**B**

<b>Banking Commission</b> —confirmation of commissioner.....	30
<b>Bladenboro, Town of</b> —100th Anniversary.....	1
<b>Boyles, Harlan E.</b> .....	5
<b>Bryant, J. Frank</b> .....	7

**C**

<b>Carver, George Washington</b> .....	3
<b>Colleges and Universities</b>	
Commemorating 40th anniversary of Community College System.....	14
Date for election of members of State Board of Community Colleges .....	29
Honoring Bonnie E. Cone.....	9
Honoring Tom Joyner Foundation .....	3
Tuskegee Institute .....	3
<b>Community Colleges, State Board of</b> —date for election of members .....	29
<b>Cone, Bonnie E.</b> .....	9

**D**

<b>Deane, Charles Bennett "C.B."</b> .....	25
<b>Deceased Persons</b> ( <i>see also</i> General Assembly)	
Arends, Rev. Johann Gottfried .....	27
Carver, George Washington .....	3
Cone, Bonnie E. ....	9
Deane, Charles Bennett "C.B." .....	25

**Deceased Persons—continued**

Koonce, Samuel.....	26
Lightner, Clarence Everett.....	21
Lillington, General Alexander.....	18
Marlow, Glenn C. ....	10
McLaurin, Timothy Reese.....	23
Neely, Alan Preston.....	28
Nussman, Rev. Adolpheus.....	27
Randall, Hugh D. ....	10
Rowan, Matthew.....	8
Washington, Booker T.....	3
Wilkins, Elmer Vanray "E.V" .....	15
Wyche, Mary Lewis.....	6

**E**

<b>Easley, Michael F.</b> —invitation to address General Assembly.....	2
<b>Education</b> —Henderson County Education Foundation Hall of Fame .....	10
<b>Education, State Board of</b>	
Confirmation of Governor's appointments .....	13
Providing for a joint session to confirm Governor's appointments .....	12

**G**

**General Assembly**

Adjournment.....	31
Confirmation of Commissioner of Banks.....	30
Date for election of members of State Board of Community Colleges.....	29
Deceased former members	
Boyles, Harlan E. ....	5
Bryant, J. Frank.....	7
Hunter, Thomas Bell.....	24
Mosley, Jane Hurley.....	22
Warren, Edward Nelson.....	19
Inviting Governor Michael Easley.....	2
Joint session to commemorate the 100th anniversary of Wilbur and Orville Wright's first flight.....	17
Providing for a joint session to confirm Governor's appointments to State Board of Education.....	12

**Governor**

Appointments— <i>see</i> that heading	
Invitation to address General Assembly.....	2

**H**

**Harnett County**

    Lillington, Town of—*see* that heading

<b>Henderson County</b> —Education Foundation Hall of Fame.....	10
<b>Hunter, Thomas Bell</b> .....	24

**K**

**Koonce, Samuel** ..... 26

**L**

**Lightner, Clarence Everett**..... 21  
**Lillington, General Alexander** ..... 18  
**Lillington, Town of—100th Anniversary**..... 18

**M**

**Marlow, Glenn C.**..... 10  
**McLaurin, Timothy Reese**..... 23  
**Minorities**  
    Honoring Booker T. Washington ..... 3  
    Honoring George Washington Carver ..... 3  
    Honoring Tom Joyner Foundation ..... 3  
**Mosley, Jane Hurley**..... 22

**N**

**Neely, Alan Preston**..... 28  
**Nursing—honoring Mary Lewis Wyche**..... 6  
**Nussman, Rev. Adolphus** ..... 27

**R**

**Racing—see Sports**  
**Randall, Hugh D.**..... 10  
**Religion—200th Anniversary of NC Synod of the Evangelical  
Lutheran Church** ..... 27  
**Rowan, Matthew** ..... 8  
**Rowan County—250th Anniversary** ..... 8

**S**

**Sanford, Jo Anne—confirmation of appointment to Utilities  
Commission** ..... 16  
**Smith, Joseph A., Jr.—confirmation as Commissioner of Banks** ..... 30  
**Speed, Robert Tom—appointment to State Board of Education**..... 13  
**Sports—honoring NASCAR**..... 11

**T**

**Taft, Kathy A.—appointment to State Board of Education** ..... 13  
**Tate, John A., III—appointment to State Board of Education** ..... 13  
**Tom Joyner Foundation** ..... 3

<b>Tuskegee Institute</b>	
Honoring Booker T. Washington .....	3
Honoring George Washington Carver .....	3

**U**

<b>University of North Carolina</b> —honoring Bonnie E. Cone .....	9
<b>Utilities Commission</b> —confirmation of Governor's appointment.....	16

**W**

<b>Wake County</b>	
Wendell, Town of — <i>see</i> that heading	
<b>Warren, Edward Nelson</b> .....	19
<b>Washington, Booker T.</b> .....	3
<b>Wendell, Town of</b> —100th Anniversary .....	4
<b>Wilkins, Elmer Vanray "E.V"</b> .....	15
<b>Wright, Orville</b>	
100th Anniversary of first flight .....	17
Honoring .....	20
<b>Wright, Wilbur</b>	
100th Anniversary of first flight .....	17
Honoring .....	20
<b>Wyche, Mary Lewis</b> .....	6

**INDEX TO SESSION LAWS  
2003 GENERAL ASSEMBLY  
FIRST EXTRA SESSION 2003**

**C**

<b>Counties</b> --no precinct boundary changes .....	434(13)
<b>Courts</b>	
Contents of judgments invalidating redistricting acts .....	434(8)
Direct appeal of redistricting judgments to Supreme Court .....	434(10)
Three-judge panel for redistricting challenges .....	434(7a)–(7b)
Venue of redistricting cases .....	434(11a)–(11b)

**E**

<b>Elections</b>	
Political Parties Financing Fund disbursement .....	434(14)
Postponement of elections and filing under certain circumstances .....	434(5a)–(6)
Redistricting -- <i>see</i> that heading	
<b>Elections, Boards of (local)</b> --no precinct boundary changes .....	434(13)
<b>Elections, State Board of</b> --postponement of elections and filing under certain circumstances .....	434(5a)–(6)

**G**

<b>General Assembly</b> --remedy of defects in redistricting acts .....	434(9)
---	--------

**P**

<b>Political Parties</b> --Political Parties Financing Fund disbursement .....	434(14)
--	---------

**R**

<b>Redistricting</b>	
Challenges to redistricting acts .....	434(7a)–(11b)
House and Senate districts .....	434(1)–(4)
Postponement of elections and filing under certain circumstances .....	434(5a)–(6)

**INDEX TO RESOLUTIONS  
2003 GENERAL ASSEMBLY  
EXTRA SESSION 2003**

**A**

**Adournment**..... 32



**INDEX TO SESSION LAWS  
2003 GENERAL ASSEMBLY  
SECOND EXTRA SESSION 2003**

**A**

<b>Administrative Rules</b> —site development rule-making exemptions .....	435(1.3)
<b>Appointments</b>	
Governor's appointments	
Life Sciences Revenue Bond Authority .....	435(7.1)
President Pro Tempore's appointments	
Life Sciences Revenue Bond Authority .....	435(7.1)
Speaker's appointments	
Life Sciences Revenue Bond Authority .....	435(7.1)
<b>Attorney General</b> —site development agreement review .....	435(1.1)

**B**

<b>Biotechnology</b>	
Bill Lee tax credits for certain industries .....	435(3.1)–(3.9)
Major industrial facility sales tax refund .....	435(4.1)–(4.3)

**C**

<b>Commerce</b>	
Cigarette exportation tax credit .....	435(5.1)–(6.2)
Industrial site infrastructure development .....	435(1.1)
<b>Commerce, Department of</b>	
Appropriations	
Site Infrastructure Development Fund .....	435(1.2a)
Reports — <i>see</i> that heading	
Site development rule-making exemptions .....	435(1.3)
Site Infrastructure Development Fund created .....	435(1.1)
Tax incentives effect on tax equity study .....	435(3.2)
Tax incentives effectiveness study .....	435(3.2)
<b>Contracts and Purchases</b> —site development funds not subject to public contracts statutes .....	435(1.2c)
<b>Corporations, For-Profit</b>	
Bill Lee tax credits for certain industries .....	435(3.1)–(3.9)
Cigarette exportation tax credit .....	435(5.1)–(6.2)
Industrial site infrastructure development .....	435(1.1)
Major industrial facility sales tax refund .....	435(4.1)–(4.3)

**E**

<b>Economic Development</b>	
Bill Lee tax credits for certain industries .....	435(3.1)–(3.9)
Industrial site infrastructure development .....	435(1.1)
Job investment grant changes .....	435(2.1)–(2.6)

<b>Economic Development</b> —continued	
Major industrial facility sales tax refund .....	435(4.1)–(4.3)
Site development funds not subject to public contracts statutes .....	435(1.2c)
<b>Economic Investment Committee</b>	
Application evaluation for site development .....	435(1.1)
Conflict of interest .....	435(1.4)
Job investment grant changes .....	435(2.4)
Rule-making exemptions for site development .....	435(1.3)
<b>Empoyment</b> —Bill Lee tax credits for certain industries .....	435(3.1)–(3.9)
<b>Environment</b> —site development eligibility .....	435(1.1)

**F**

**Funds and Accounts**

Site Infrastructure Development Fund	
Appropriations .....	435(1.2a)
Created .....	435(1.1)
Funds not subject to public contracts statutes .....	435(1.2c)

**I**

<b>Infrastructure</b> —industrial site infrastructure development .....	435(1.1)
<b>International Trade</b> —cigarette exportation tax credit .....	435(5.1)–(6.2)

**L**

<b>Life Sciences Revenue Bond Authority</b> —created .....	435(7.1)–(7.4)
--	----------------

**N**

<b>Notification</b> —job investment grant changes .....	435(2.4)
---	----------

**P**

**Pharmaceuticals**

Bill Lee tax credits for certain industries .....	435(3.1)–(3.9)
Major industrial facility sales tax refund .....	435(4.1)–(4.3)
<b>Ports</b> —cigarette exportation tax credit .....	435(5.1)–(6.2)
<b>Public Officials</b> —conflict of interest .....	435(1.4)

**R**

**Reports**

Commerce, Department Of	
Tax incentives effect on tax equity study .....	435(3.2)
Tax incentives effectiveness study .....	435(3.2)
Life Sciences Revenue Bond Authority	
Life sciences manufacturing encouragement and fostering .....	435(7.2)

**S**

<b>Safety</b>	
Site development eligibility.....	435(1.1)
<b>State Treasurer—Life Sciences Revenue Bond Authority</b>	
Board membership.....	435(7.1)
<b>Studies</b>	
Tax incentives effect on tax equity.....	435(3.2)
Tax incentives effectiveness.....	435(3.2)

**T**

<b>Taxes and Assessments</b>	
Sales and use tax	
Major industrial facility sales tax refund .....	435(4.1)–(4.3)
Tax credits	
Bill Lee tax credits for certain industries .....	435(3.1)–(3.9)
Cigarette exportation tax credit.....	435(5.1)–(6.2)
Tax incentives effect on tax equity study .....	435(3.2)
Tax incentives effectiveness study .....	435(3.2)
Tax refunds	
Major industrial facility sales tax refund .....	435(4.1)–(4.3)
<b>Tobacco—cigarette exportation tax credit .....</b>	<b>435(5.1)–(6.2)</b>

**INDEX TO RESOLUTIONS  
2003 GENERAL ASSEMBLY  
SECOND EXTRA SESSION 2003**

**A**

**Adjournment** ..... 34